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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.08.2018

CORAM:

THE HONOURABLE MR.JUSTICE T.RAJA

AND

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P(MD)No.18775 of 2018

and

W.M.P(MD)Nos.16630 and 16631 of 2018

T.Rengaraj

... Petitioner

Vs.

1.The District Collector,
Dindigul District,
Dindigul.

2.The District Revenue Officer,
Dindigul District,
Dindigul.

3.The Revenue Divisional Officer,
Dindigul District,
Dindigul.

4.The Tahsildar,
Dindigul East Taluk Office,
Dindigul.

5.The Block Development Officer,
Sanarpatty Union,
Sanarpatty,
Dindigul East Taluk,
Dindigul.

6.The Executive Officer,
Kambiliyampatti Panchayat,
Kambiliyampatti,
Siluvathur (via),
Dindigul District.

7.A.Vellaichamy

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, praying for issuance of a writ of Certiorari to call for the records pertaining to the impugned order passed by the fifth respondent dated 13.08.2018 in Na.Ka.No.2442/16/Thi.3 and quash the



For Petitioner

: Mr.R.Vijayakumar

For Respondents

: Mr.VR.Shanmuganathan
Special Government Pleader for R.1 to R.6

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ORDER

This writ petition has been filed seeking a writ of Certiorari to call for the records pertaining to the impugned order passed by the fifth respondent dated 13.08.2018 in Na.Ka.No.2442/16/Thi.3 and quash the same.

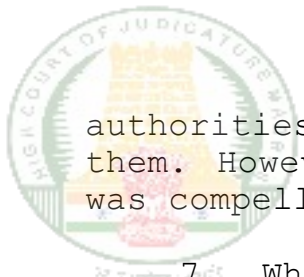
2. Mr.VR.Shanmuganathan, learned Special Government Pleader takes notice on behalf of the respondents 1 to 6. In view of the nature of the relief sought for by the petitioner, notice to the seventh respondent is dispensed with as it is unnecessary at this stage.

3. By consent, the writ petition is taken up for final disposal.

4. The petitioner has challenged the impugned order dated 13.08.2018 issued by the fifth respondent - Block Development Officer, Sanarpatty Union, Sanarpatty, Dindigul East Taluk, Dindigul District, addressing to the sixth respondent - Executive Officer, Kambiliyampatti Panchayat, Dindigul District, to go for 'Tom-Tom' and remove the encroachments in S.No.1864/23, 1864/29 and 1866/23 and 1867/1.

5. Learned Counsel for the petitioner would submit that the impugned notice dated 13.08.2018 was issued pursuant to the order dated 16.04.2018 passed by this Court in W.P(MD)No.8210 of 2018, filed by one A.Vellaichamy, without impleading the petitioner herein, seeking a writ of Mandamus, directing the respondents therein to take all effective appropriate steps to remove the illegal encroachments made in the public road running from Kambiliampatti Village, via, Kattupatty, particularly, in S.Nos.1867/1, 1864/23, 1864/29 and 1866/23 of Kambiliampatti Village, Sanarpatti Union, Dindigul East Taluk, Dindigul District, on the basis of the representation of the petitioner therein, dated 19.02.2018, on merits. However, no notice whatsoever was given to the petitioner herein as he is entitled to receive the same.

6. Further, it is pleaded by the learned Counsel for the petitioner that the petitioner has not made any encroachments in the aforesaid Survey Numbers and he has got the patta land. Moreover, the lands in S.Nos.1864/20, 21, 22, 23, 24 are all ryotwari punja lands, which are admittedly not the Government lands and therefore, they cannot proceed to remove the alleged encroachments as the same cannot be construed as encroachments. Upon notice, the petitioner would be able to place all the revenue records before the



authorities concerned and explain the case of the petitioner before them. However, such exercise has not been done and the petitioner was compelled to come to this Court with the present writ petition.

7. Whereas Mr.VR.Shanmuganathan, learned Special Government Pleader appearing for the respondents 1 to 6, on instructions, submitted that even the revenue records would prima facie show that the lands in S.Nos.1864/20, 21, 22, 23, 24 are shown only as ryotwari punja lands.

8. Considering the rival submissions, we find that it is a fit case where the authorities concerned should issue notice to the petitioner and receive his objections and proceed further in accordance with law.

9. Therefore, the impugned order passed by the fifth respondent in Na.Ka.No.2442/16/Thi.3, dated 13.08.2018, is directed to be treated as show cause notice by both the parties and the petitioner is directed to submit his explanation to the same along with all supporting documents before the fifth respondent, within a period of two weeks from the date of receipt of a copy of this order. On receipt of the same, the fifth respondent is directed to consider the explanation of the petitioner and proceed further in accordance with law, after affording due opportunity of hearing to the petitioner and to the seventh respondent as well as to all the other necessary parties, if any, within a period of four weeks thereafter.

10. With the above directions, this writ petition stands disposed of. No costs. Consequently, the connected writ miscellaneous petitions are closed.

Sd/-

Assistant Registrar(Records)

/True Copy/

Sub Assistant Registrar(CS-II)

To

1.The District Collector,
Dindigul District,
Dindigul.

2.The District Revenue Officer,
Dindigul District,
Dindigul.

3.The Revenue Divisional Officer,
Dindigul District,
Dindigul.



4.The Tahsildar,
Dindigul East Taluk Office,
Dindigul.

5.The Block Development Officer,
Sanarpatty Union,
Sanarpatty,
Dindigul East Taluk,
Dindigul.

6.The Executive Officer,
Kambiliyampatti Panchayat,
Kambiliyampatti,
Siluvathur (via),
Dindigul District.

+1cc to M/S.R.Vijayakumar, Advocate SR.No. 81278

W.P (MD) No.18775 of 2018
and
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30.08.2018

rsb
JM/SKN/SAR 2/30.08.2018/4P/8C