



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.10.2018

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE T.RAJA
AND
THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P. (MD) No.20713 of 2018
and
W.M.P. (MD) .Nos.18466 and 18467 of 2018

K.Mohanraj

... Petitioner

Vs.

1. The District Collector,
Office of the District Collector,
Sivagangai District.
2. The Thasildar,
Thiruppuvanam Taluk,
Thiruppuvanam,
Sivagangai District.
3. The Executive Officer,
Thiruppuvanam Town Panchayat,
Thiruppuvanam,
Sivagangai District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records relating to impugned order dated 05.09.2018 on the file of the respondent No.3 and quash the same as illegal.

For Petitioner : Mr.R.Alagumani
For R1 & R2 : Mr.VR.Shanmuganathan
Special Government Pleader
For R3 : Mr.M.Rajarajan

O R D E R

[Order of the Court was made by T.RAJA,J.]

Mr.K.Mohanraj, who is owning a land in Survey No.97/1B, has come to this Court, challenging the impugned proceedings, asking him to remove the encroachment in Survey No.97/51, as it has been

alleged that he has made encroachment in 20 feet pathway.

2. Assailing the impugned order, learned counsel appearing for the petitioner would submit that the petitioner is not owning any land in Survey No.97/51 at Thirupuvanam. Therefore, the impugned notice asking him to remove the encroachment in Survey No.97/51, encroaching the 20 feet pathway in Thirupuvanam by raising some construction, is wholly misconceived and unjustified, when the petitioner is the owner of the land in Survey No.97/1B. Further, no notice has been issued to the petitioner. Therefore, they should not take any steps for removal of encroachment made in Survey No.97/1B.

3. Learned Special Government Pleader appearing for the first respondent submitted that action is taken for removal of encroachment only in Survey Nos.97/51, 97/72, 97/99, 97/112 and 97/85. In all these places, several encroachments have come up.

4. If the petitioner is not having any land in Survey No.97/51 as mentioned in the impugned proceedings, he need not come to this Court. As the petitioner has claimed that he is not owning any land in Survey No.97/51, the impugned notice issued need not be gone into, in view of the statement made by the learned counsel for the petitioner that he is neither owning any land in Survey No.97/51 nor encroaching any land. Similarly, as per the statement made by the learned Special Government Pleader that they are concentrating the pathway in Survey Nos. 97/51, 97/72, 97/99, 97/112 and 97/85, the alleged encroachers in the said Survey Numbers can be proceeded with in accordance with law. It is needless to mention that if there is any encroachment made by the petitioner in Survey No.97/1B, necessarily notice has to be issued before taking action under Section 7 of the Tamil Nadu Land Encroachment Act, 1905.

5. With these observation, the writ petition stands disposed of. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar (CS-IV)

To

1. The District Collector,
Sivagangai District.



2. The Thasildar,
Thiruppuvanam Taluk,
Thiruppuvanam,
Sivagangai District.

3. The Executive Officer,
Thiruppuvanam Town Panchayat,
Thiruppuvanam,
Sivagangai District.

+ 1 CC TO Mr.R.ALAGUMANI, ADVOCATE IN SR No. 88375

+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 88692

AKV

TE/SKN/SAR-4 : 15/11/2018 : 3P/6C

W.P. (MD) No.20713 of 2018
03.10.2018