



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 10.06.2019

CORAM:

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU
AND

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P(MD)NO.9998 OF 2019

and

W.M.P(MD)No.7788 of 2019

Gurusamy Nadar

:Petitioner

.vs.

- 1.The District Collector,
Madurai,
Madurai District.
- 2.The Commissioner,
Madurai Corporation,
Madurai.
- 3.The Zonal Deputy Tahsildar,
Madurai South Taluk,
Madurai.
- 4.The Executive Engineer,
Tamil Nadu Housing Board,
Ellis Nagar,
Madurai - 16.
- 5.The Executive Engineer,
Tamil Nadu Slum Clearance Board,
Madurai Division,
Madurai.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus forbearing the respondents from demolishing the Petitioner's house in S.No.411/1 in Door No.40 in N.S.K.Nagar Ist Street, Avaniyapuram Village, Madurai South Taluk.

For Petitioner

: Mr.L.Shaji Chellan

For Respondents
1, 3 to 5

: Mr.VR.Shanmuganathan
Special Govt.Pleader

For Respondent-2

: Mr.T.S.Mohammed Mohideen



O R D E R

[Order of the Court was made by **K.RAVICHANDRABAABU., J.**]

The Petitioner seeks for a mandamus forbearing the respondents from demolishing the Petitioner's house in S.No.411/1 in Door No.40 in N.S.K.Nagar Ist Street, Avaniyapuram Village, Madurai South Taluk.

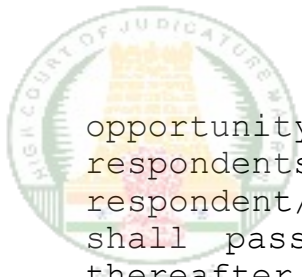
2.Heard the learned counsel appearing for the Petitioner and the learned Special Government Pleader appearing for the respondents 1 and 3 to 5 and Mr.T.S.Mohammed Mohideen, learned counsel appearing for the second respondent/Madurai Corporation.

3.The grievance of the Petitioner before this Court is that the respondents are attempting to demolish the house of the Petitioner situated in the above said survey number, without following the due process of law. It is the specific contention of the learned counsel for the Petitioner that so far no notice was issued on the Petitioner under the Tamil Nadu Land Encroachment Act, 1905, even assuming that the Petitioner is an encroacher.

4.On the other hand, learned Special Government Pleader appearing for the respondents 1 and 3 to 5, based on instruction, submitted that already notice under Section 7 of the Tamil Nadu Land Encroachment Act, 1905, dated 12.03.2019 was issued to the Petitioner and it is for him to submit his explanation to the said notice, which the Petitioner has not responded so far.

5.It is seen that this Court while disposing a batch of cases in WP(MD)Nos.7086 to 7182 of 2019, dated 27.03.2019 filed by several similar persons either seeking for mandamus or for quashing the Section 7 notice, this Court directed those Petitioners to submit their reply within 15 days and with further direction to the Tahsildar therein to consider the same and pass final orders after affording an opportunity of hearing to all those Petitioners. It was further observed therein that till an order is passed, the respondents shall not precipitate the matter further.

6.In this case, though it is contended by the Petitioner that no notice under Section 7 of the Tamil Nadu Land Encroachment Act is issued so far, perusal of the copy of the notice issued under section 7 of the Tamil Nadu Land Encroachment Act indicate that the same was served on the Petitioner by affixure. In any event, as the Petitioner has to give reply to the said notice, the learned Special Government Pleader is directed to furnish a copy of the said notice to the learned counsel for the Petitioner forthwith, so as to enable the Petitioner to submit his reply to the said notice within 15 days from the date of receipt of a copy of this order. On receipt of such reply, the third respondent/the Zonal Deputy Tahsildar, Madurai South Taluk, Madurai shall consider the same and pass final orders on merits and in accordance with law, after affording an



opportunity of hearing to the Petitioner. Till such time, the respondents shall not precipitate the matter further. The third respondent/The Zonal Deputy Tahsildar, Madurai South Taluk, Madurai shall pass such final orders within a period of eight weeks thereafter.

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7. With the above directions, the Writ Petition stands disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-II)

/ True Copy /

Sub Assistant Registrar (CS-)

vsn

To

1. The District Collector,
Madurai, Madurai District.
2. The Commissioner,
Madurai Corporation, Madurai.
3. The Zonal Deputy Tahsildar,
Madurai South Taluk, Madurai.
4. The Executive Engineer,
Tamil Nadu Housing Board,
Ellis Nagar, Madurai - 16.
5. The Executive Engineer,
Tamil Nadu Slum Clearance Board,
Madurai Division, Madurai.

+1 CC to M/s.SPL GP (SR-67897[F] dated 11/06/2019)

+1 CC to M/s.L.SHAJI CHELLAN, Advocate
(SR-67798[F] dated 11/06/2019)

+1 CC to M/s.T.S.MOHAMED MOHIDHEEN, Advocate
(SR-67998[F] dated 11/06/2019)

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