



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.06.2019

CORAM:

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

and

WEB COPY THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.(MD)No.12132 of 2018

and

WMP(MD)No.11052 of 2018

M.Devendran

: Petitioner

Vs.

1. State rep. by
The District Collector,
Pudukottai District, Pudukottai.

2. State rep. by
The Revenue Divisional Officer,
O/o. the Revenue Divisional Office, Pudukottai.

3. State rep. by
The Tahsildar,
Taluk Office, Ponnamaravathy Taluk,
Pudukottai District.

: Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus to call for records relating to proceeding Na.Ka.775/2018/A8 dated 16.05.2018 issued by the 3rd respondent and quash the same as illegal and consequently forbearing the 3rd respondent from removing the temple belongs to the local residents of Anna Nagar, Ponnamaravathy, Pudukottai District.

For Petitioner : Mr.R.Senthil Kumar

For Respondents : Mr.M.Karuppasamy
Government Advocate

O R D E R

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

This writ petition is filed challenging the proceedings of the third respondent Tahsildar dated 16.05.2018, wherein and whereby the petitioner was called upon to remove the encroachment made at Survey No.850/1, Ponnamaravathy West, Village Natham, measuring an extent of 0.00.26 square meter.



2. Heard the learned counsel for the petitioner and the learned Government Advocate for the respondents.

3. It is contended by the learned counsel for the petitioner that before passing the impugned order, the petitioner was not put on notice. Even otherwise it is contended that the subject matter property was used as a dump yard and therefore, putting up a small temple in the said property is not going to affect anyone.

4. On the other hand, the learned Government Advocate submitted that the present impugned order was passed in pursuant to the order passed by this Court in W.P.(MD)No.5606 of 2018, dated 16.03.2018, wherein this Court has directed the respondents therein to take appropriate action to remove the encroachment in the subject matter property. Therefore, he contended that the petitioner cannot have any grievance against the impugned proceedings.

5. Upon perusing the order passed in W.P.(MD)No.5606 of 2018, dated 16.03.2018, it is evident that the official respondents were directed to take appropriate action to remove the encroachment in the subject matter property after putting the encroachers on notice. If that be the direction, we are of the view that the impugned proceedings calling upon the petitioner to remove the encroachment is not proper course of action and on the other hand they should have been first issued with a show cause as to why such encroachment cannot be removed. Therefore, without expressing any view on the merits of the contentions raised by the petitioner, this writ petition is disposed of by directing the parties to treat the impugned proceedings as a notice with further direction to the petitioner to give explanation to the same in the time frame as stated hereunder:-

(a). The petitioner as well as the respondents shall treat the impugned proceedings as show cause notice;

(b). The petitioner shall give explanation to the notice within a period of two weeks from the date of receipt of a copy of this order; and

(c). On receipt of such explanation, the third respondent shall pass appropriate orders on merits and in accordance with law, within a period of six weeks thereafter.



No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar(CS)

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To

1. The District Collector,
Pudukottai District, Pudukottai.
2. The Revenue Divisional Officer,
O/o. the Revenue Divisional Office, Pudukottai.
3. The Tahsildar,
Taluk Office, Ponnamaravathy Taluk,
Pudukottai District.

+1cc TO M/S.r.Senthil Kumar, Advocate,Sr.No.69742

+1cc To M/S SPECIAL GOVERNMENT PLEADER, Sr.No69466

W.P. (MD) No.12132 of 2018
17.06.2019

BUC (26/06/2019) 3P/6C