



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 12.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU
and

WEB COPY THE HONOURABLE MR.JUSTICE SETHILKUMAR RAMAMOORTHY

W.P. (MD) No.15515 of 2019

and

W.M.P. (MD) No.12172 of 2019

K.Esakkimuthu Thevar

: Petitioner

Vs.

1.The Revenue Divisional Officer,
Radhapuram Taluk,
Tirunelveli District.

2.The Tahsildar,
Radhapuram Taluk,
Tirunelveli District.

3.The Special Officer/Block Development Officer,
South Karungulam,
Valliyoar Panchayat Union,
Radhapuram Taluk, Tirunelveli District.

: Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus calling for the records relating to the impugned order of the third respondent in Na.Ka.No.A3/3104/2018, dated 24.06.2019 and quash the same and consequently direct the respondents to issue patta for the 5.75 cents in the Natham S.No.895/15, after rectifying the mistake.

For Petitioner : Mr.H.Arumugam

For Respondents : Mr.N.Shanmuganathan
Additional Government Pleader

O R D E R

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

This writ petition is filed challenging the order of the third respondent, dated 24.06.2019, wherein and whereby the petitioner was called upon to remove the encroachment within a period of seven days, also by indicating that failure to do so, would result in action for removal of encroachment with Police aid.

2.Mr.H.Arumugam, learned counsel appearing for the petitioner contends that the impugned proceedings was issued straight away without affording an opportunity of hearing to the petitioner by putting him on notice. Therefore, he contends that the impugned



proceedings violates the principles of natural justice. The learned counsel also contended that even on merits, the petitioner is having an excellent case to defend the act of removal of the so called encroachment.

3. Upon hearing the learned counsel for the petitioner and perused the materials placed before this Court, we are not inclined to go into the merits of the contentions raised by the petitioner in respect of his claim over the subject matter property, as this Court is inclined to remit the matter to the third respondent to consider the objection of the petitioner and thereafter to proceed in accordance with law.

4. It is seen that one Kandasamy, has approached this Court and filed W.P.(MD)No.2633 of 2019 seeking for a direction to the respondents 1 to 4 therein to remove the encroachment put up by the fifth respondent therein, who is none else than the petitioner herein, in the property referred to in the said writ petition. The said writ petition was dismissed on 14.03.2019 with a direction to the Tahsildar to conduct a survey and if any encroachment is found during the survey, further direction to the Block Development Officer, to take appropriate action to remove the encroachment in accordance with law. Consequent upon the said order, the present impugned proceedings is issued. Though the third respondent has chosen to pass the present impugned proceedings, since it appears that the said proceedings was issued without hearing the objection of the petitioner, we are of the view that the third respondent shall have to hear the objection and thereafter, take a decision on merits and in accordance with law, by following the procedure contemplated under Section 131(2) of the Tamil Nadu Panchayat Act, 1994.

5. Accordingly, without expressing any view on the merits of the matter, this writ petition is disposed of by directing both the parties to treat the impugned proceedings as a notice and consequently with a further direction to the petitioner to file his reply/objection before the third respondent within a period of two weeks from the date of receipt of a copy of this order. On receipt of such objection/reply, the third respondent shall pass appropriate orders on merits and in accordance with law, within a period of four weeks thereafter. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (C.O)

// True Copy //

Sub Assistant Registrar (CS)



To

1.The Revenue Divisional Officer,
Radhapuram Taluk,
Tirunelveli District.

2.The Tahsildar,
Radhapuram Taluk,
Tirunelveli District.

3.The Special Officer/Block Development Officer,
South Karungulam,
Valliyoor Panchayat Union,
Radhapuram Taluk, Tirunelveli District.

+1 CC to SPL GP SR-75238.

+1 CC to Mr.H.ARUMUGAM, Advocate SR-75394.

W.P. (MD) No.15515 of 2019
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CS/ /SAR/18.07.2019/ 3P/ 6C