



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.07.2019

CORAM:

WEB COPY

**THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU
AND
THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

**W.P(MD)NO.15615 OF 2019
and
W.M.P(MD)No.12300 of 2019**

S.Vairam

:Petitioner

.vs.

1.The District Collector,
Sivagangai District,
Sivagangai.

2.The Tahsildar,
Karaikudi Taluk,
Karaikudi,
Sivagangai District.

3.The Commissioner,
Karaikudi Special Grade Municipality,
Karaikudi,
Sivagangai District.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the respondents not to evict the Petitioner from the property in Survey Ward No.1, Block No.15, Town Survey No.946/6, Karaikudi Municipal Town, Kalanivasal, Panthandi Pottal Southern side to an extent of 1800 sq.ft and Survey Ward No.1, Block No.15, Town Survey No.946/6, Karaikudi Municipal Town, Kalanivasal Pudukanmai area to an extent of 1068 sq.ft -totalling to an extent of 2868 sq.ft, without due process of law on the basis of the Petitioner's representation dated 4.7.2019

For Petitioner

:Mr.S.Madhavan

For Respondents
1 and 2

:Mr.VR.Shanmuganathan
Special Govt.Pleader

For Respondent-3

:Mr.P.Mahendran



O R D E R

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

This Writ Petition is filed directing the respondents not to evict the Petitioner from the property in Survey Ward No.1, Block No.15, Town Survey No.946/6, Karaikudi Municipal Town, Kalanivasal, Panthandi Pottal Southern side to an extent of 1800 sq.ft and Survey Ward No.1, Block No.15, Town Survey No.946/6, Karaikudi Municipal Town, Kalanivasal Pudukanmai area to an extent of 1068 sq.ft -totalling to an extent of 2868 sq.ft, without due process of law on the basis of the Petitioner's representation dated 4.7.2019.

2.Heard the learned counsel appearing for the Petitioner and the learned Special Government Pleader appearing for the respondents 1 and 2 and the learned counsel appearing for the third respondent.

3.The grievance of the Petitioner is that the respondents are trying to evict the Petitioner from the subject-matter property without following the due process of law. Therefore, the Petitioner seeks for a protection by issuing a direction to the respondents to consider his representation, dated 4.7.2019.

4.The learned Special Government Pleader appearing for the respondents 1 and 2, based on instructions, submitted that already a notice under Section 7 of the Tamil Nadu Land Encroachment Act,1905 has been issued on 11.7.2019 to the son of the Petitioner and therefore, it is for the Petitioner to pursue the matter by filing appropriate reply to the said notice. However, it is contended by the learned counsel for the Petitioner that no such notice was issued in the name of the Petitioner. Since the prayer sought for in this Writ Petition is only to seek for a direction to the respondents not to evict the Petitioner from the subject-matter property without following due process of law and as it is stated that the notice is issued on the Petitioner's son, it is for the respondents to issue notice to the Petitioner also and proceed thereafter, if the encroachment is made by the petitioner as well.

5.Therefore, this Writ Petition is disposed of, only by taking note of the above-said facts and circumstances and also by issuing a direction to the respondents to follow the procedures contemplated under the relevant 'Act', if they wish to evict the Petitioner from the subject-matter property. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (Crl side)

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To

1.The District Collector,
Sivagangai District,
Sivagangai.

2.The Tahsildar,
Karaikudi Taluk,
Karaikudi,
Sivagangai District.

3.The Commissioner,
Karaikudi Special Grade Municipality,
Karaikudi,
Sivagangai District.

+1 CC to M/s.S.MADHAVAN, Advocate (SR-75315[F] dated 15/07/2019)

+1 CC to M/s.SPL GP (SR-75408[F] dated 16/07/2019)

+1 CC to M/s.P.MAHENDRAN, Advocate (SR-75479[F] dated 16/07/2019)

W.P (MD) NO.15615 OF 2019

and

W.M.P (MD) No.12300 of 2019

vsn

KK/SAR/24.07.2019/3P-7C