



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.07.2019

CORAM

THE HONOURABLE MR.JUSTICE **K.RAVICHANDRABAABU**

AND

THE HONOURABLE MR.JUSTICE **SENTHILKUMAR RAMAMOORTHY**

Writ Petition (MD) No.15661 of 2019

and

W.M.P (MD) No.12336 of 2019

Boominathan

.. petitioner

Vs.

The Commissioner,
Kottampatti Panchayat Union,
Kottampatti,
Melur Taluk,
Madurai District.

..Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for records pertaining to the impugned notice in Na.Ka.No.1164/2017/A4 dated 03.07.2019 passed by the respondent and quash the same.

For Petitioner : Mr.K.Baalasundaram
For Respondent : Mr.N.Shanmugaselvam
Addl. Govt. Pleader

ORDER

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

The petitioner is aggrieved against the proceedings of the respondent, dated 03.07.2019, which is Form II notice issued under Sections 131(2) and 222 of the Tamil Panchayat Act. Through the impugned proceedings, the petitioner was called upon to remove the encroachment said to have been made at S.No.263.

2.Heard both sides.

3.The only claim made by the petitioner is that the subject matter property is not Government porampoke and on the other hand, it is Village natham and therefore, the respondent is not entitled to issue the impugned notice of eviction.



4.On the other hand, the learned Additional Government Pleader, based on instructions, submitted that the subject matter property is not classified as village natham and on the other hand, it is still under the control of the Panchayat as per the FMB and therefore, the impugned proceedings was rightly issued by the respondent.

5.We are not inclined to go into the rival submissions of the respective parties, for the simple reason that as against the previous notice issued on 11.02.2019, the writ petitioner has made a representation/objection on 15.02.2019 and without considering the said representation, the present impugned proceedings, dated 03.07.2019, came to be passed. Therefore, we are of the view that it is for the respondent to consider the claim of the petitioner and thereafter, to pass appropriate orders on merits and in accordance with law, with specific reasons and findings. Therefore, without expressing any view on the merits of the matter, this writ petition is disposed of by directing the respondent to consider the objection raised by the petitioner, dated 15.02.2019, and pass fresh order on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of this order. The petitioner is directed to furnish a copy of the said representation, dated 15.02.2019, to the respondent along with the copy of this order. Till the order is passed by the respondent as stated supra, the status quo as on date shall be maintained. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-II)

// True Copy //

Sub Assistant Registrar(CS)

skn
To
The Commissioner,
Kottampatti Panchayat Union,
Kottampatti, Melur Taluk, Madurai District.

+1CC TO MR.K.BAALASUNDHARAM, Advocate Sr. No.78750

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SE (CO)
TR (14.08.2019) 2P 3C