



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

and

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.(MD)No.16338 of 2018

and

WMP(MD)No.12986 of 2018

Anbalagan

: Petitioner

Vs.

1. The Tahsildar,
Palani Taluk Office,
Dindigul District.

2. The Executive Officer,
Neikarapatti Town Panchayat,
Palani Taluk,
Dindigul 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 proceedings in Na.Ka.No.155/2019, dated 03.05.2019, on the file of the 2nd respondent and quash the same as illegal and arbitrary and consequently direct the 2nd respondent to impose the house tax on the petitioners house which situated in Survey No. 1155/8 and 1155, 14th ward, K.Vellore, Neikkarapatti Palani Taluk, Dindigul District, within the time stipulated by this Court.

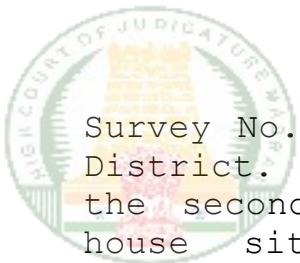
For Petitioner : Mr.A.D.Ganesha Moorthy

For Respondent : Mr.M.Karuppasamy
Government Advocate

O R D E R

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

The petitioner is aggrieved against the proceedings of the second respondent, dated 03.05.2019, wherein and whereby he was called upon to remove the encroachment said to have been made at



Survey No.1155 of K.Vellore, Naikkarapatti, Palani Taluk, Dindigul District. Consequently, the petitioner seeks for a direction to the second respondent to impose house tax on the petitioner's house situated at Survey Nos.1155/8 and 1155, K.Vellore, Naikkarapatti, Palani Taluk, Dindigul District.

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2.Heard both sides.

3.It is the case of the petitioner that the impugned action of the second respondent by treating the petitioner as an encroacher is not only against the principles of natural justice and also bad on the reason that the petitioner was already issued with patta in respect of Survey No.1155/8 as early as in the year 1998. Therefore, it is contended that the second respondent cannot pass the impugned order straight away asking the petitioner to remove the disputed construction as if it is an encroachment, without giving an opportunity of hearing to the petitioner.

4.It is seen that the very same petitioner has already approached this Court and filed W.P.(MD)No.523 of 2016 questioning the similar action of the authorities and the said writ petition was disposed of on 07.09.2017 by remitting the matter to the Executive Office of Naikkarapatti Town Panchayat to proceed afresh in accordance with law, on the reason that the impugned order therein was passed without hearing the petitioner. Therefore, it is contended by the learned counsel for the petitioner that the second respondent once again is not entitled to issue the impugned proceedings without putting the petitioner on notice.

5.Perusal of the impugned proceedings would show that the same was issued without putting the petitioner on notice. Therefore, we are of the view that the impugned proceedings itself can be treated as a notice, so as to enable the petitioner to file his objection before the second respondent. Accordingly, this writ petition is disposed of with the following directions:-

(a).The parties to the writ petition shall treat the impugned proceedings as a notice issued to the writ petitioner;

(b).The writ petitioner shall file his objection/explanation within two weeks from the date of receipt of a copy of this order; and

(c).On receipt of such objection/explanation, the second respondent shall pass a speaking order on merits and in accordance with law, within a period of four weeks thereafter. Till an order is passed by the second respondent, *status-quo* as on today shall be maintained.



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No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar (CS)

To

1. The Tahsildar,
Palani Taluk Office,
Dindigul District.
2. The Executive Officer,
Neikarapatti Town Panchayat,
Palani Taluk,
Dindigul District.

+1 CC to M/s.A.D.GANESHA MOORTHY, Advocate (SR-76974[F] dated 23/07/2019)

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23.07.2019

rj2

AE/ (31.07.2019) 3P 4C