



W.P(MD)NO.16917 OF 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

AND

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P(MD)NO.16917 OF 2019

and

W.M.P(MD)No.13500 of 2019

R.Arunachalam

:Petitioner

.VS.

1.The District Collector,
Trichy District,
Trichy.

2.The Tahsildar,
Manapparai Taluk,
Manapparai,
Trichy 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 to conduct enquiry on the objections of the Petitioner, dated 29.7.2019 within the time frame fixed by this Court besides forbearing the respondent, particularly, the second respondent and his subordinates from demolishing the asbestos sheet thatched house constructed in the T.S.Nos.19/7 and 19/1C situated at Sevalur Village, Manapparai Taluk, Trichy District.

For Petitioner

:Mr.B.Prahalad Ravi

For Respondents

:Mr.M.Karuppasamy
Govt.Advocate

O R D E R

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

The Petitioner seeks for a mandamus directing the respondents to conduct enquiry on the objections of the Petitioner, dated 29.7.2019, besides forbearing the respondent, particularly, the second respondent and his subordinates from demolishing the asbestos sheet thatched house constructed in the T.S.Nos.19/7 and 19/1C, situated at Sevalur Village, Manapparai Taluk, Trichy District.



2.Heard both sides.

3.It is claimed by the Petitioner that a piece of land in T.S.Nos.19/1C and 19/3C has been in his absolute possession and enjoyment for long number of years and his family is using the same as a pathway to reach their field. It is also claimed that they have put up a shed and thatched house in T.S.No.19/7 and T.S.No.19/1C. It is further seen that the second respondent issued notice under Section 7 of the Tamil Nadu Land Encroachment Act on 25.7.2019, calling upon the Petitioner to give objection if any on or before 1.8.2019 as to why the subject-matter encroachment shall not be removed by passing an order under Section 6 of the said Act.

4.The grievance of the Petitioner before this Court is that having issued such notice and when the Petitioner has also sent his objections on 29.7.2019, the Second Respondent, without even considering such objections, sought to interfere with the possession of the Petitioner.

5.Therefore, when the matter was taken up on 30.07.2019 for admission, this Court directed the learned Government Advocate to take notice and to get instructions also by granting an interim order of status-quo.

6.Today, when the matter is taken up for further hearing, it is submitted by the learned Government Advocate that the Petitioner had not appeared before the second respondent and given any explanation/objection either on 1.8.2019 or on any date earlier. However, it is contended by the Petitioner's counsel that an objection was already filed on 29.7.2019. In any event, the fact remains that only a notice under Section 7 of the above Act was issued against the Petitioner and therefore, the Petitioner has to give his explanation to the said notice and such explanation has to be considered by the second respondent before resorting to further proceedings under Section 6 of the Act.

7.Therefore, the Writ Petition is disposed of by issuing the following directions:

(a)the Petitioner shall forward the explanations/objections already given on 29.7.2019 once-again to the second respondent within a period of two weeks from the date of receipt of a copy of this order;

(b)on receipt of such explanations/objections, the second respondent shall consider the same and pass appropriate orders on merits and in accordance with law, within a period of four weeks thereafter;



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We make it clear that we are not expressing any opinion on the merits of the claim made by the respective parties in respect of the subject-matter encroachment, as it is for the second respondent to consider and decide the matter based on the explanations/objections given by the Petitioner. Till an order is passed by the second respondent, status-quo as on today, shall be maintained. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

To

1.The District Collector,
Trichy District,
Trichy.

2.The Tahsildar,
Manapparai Taluk,
Manapparai,
Trichy District.

+1 CC to Mr.B.PRAHALAD RAVI, Advocate SR-80184.

+1 CC to SPL GP SR-80308.

ORDER MADE IN
W.P (MD) NO.16917 OF 2019
and
W.M.P (MD) No.13500 of 2019
06.08.2019

CS(19.08.2019) 3P 5C