



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.08.2019

WEB COPY

CORAM:

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

**W.P(MD)NO.18638 OF 2019
and
W.M.P(MD)No.15005 of 2019**

Muthuramalingam

:Petitioner

.vs.

1.The District Collector,
Office of the District Collector,
Madurai District.

2.The Commissioner,
Office of the Commissioner,
Madurai Corporation,
Madurai.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari calling for the records connected with the orders passed by the second respondent in Na.Ka.No.MSCL/Package-6/18-19, dated 09.08.2019 and to quash the same as illegal.

For Petitioner

:Mr.R.Alagumani

For Respondents

:Mr.N.Shanmugaselvam
Addl. Govt.Pleader

O R D E R

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

Mr.N.Shanmugaselvam, learned Additional Government Pleader takes notice for the respondents 1 and 2.

2.By consent of both parties, the main Writ Petition itself is taken up for final disposal at the admission stage itself.



3.The Petitioner is aggrieved against the proceedings, dated 9.8.2010 issued by the second respondent, through which, he was called upon to remove the encroachment put up at the property referred to in the impugned proceedings, also by indicating that if he has any objection against the impugned proceedings, he can file such objection within a period of three days.

4.Heard both sides.

5.Though the learned counsel for the Petitioner contended that the Petitioner is having the patta and other documents in support of his claim that he is not an encroacher and therefore, the impugned proceedings cannot be sustained, we are not inclined to express any view on the merits of those contentions for the simple reason that in the very impugned proceedings itself, the Petitioner was called upon to file his objections, if any, against the proposed action. It is also seen that the Petitioner who had resisted such eviction proceedings, has filed his objection on 17.8.2019. When such being the factual position, the Petitioner is not justified in approaching this Court in challenging the impugned proceedings, without waiting for an order being passed by the second respondent.

6.The learned Additional Government Pleader appearing for the respondents submitted that the objections raised by the Petitioner will be considered and appropriate orders on merits and in accordance with law, will be passed on the same within a period of three weeks, provided those objections are already filed by the Petitioner.

7.The learned counsel for the Petitioner submitted that the Petitioner has filed two separate objections in respect of two different Door Numbers in D.Nos.2-C and 2-H. However, we could see only one objection is made available in the typed-set of papers in respect of Door No.2-H. However, as it is stated that the Petitioner has made objections for both Door Numbers, it is better that the Petitioner, along with a copy of this order, shall also furnish a copy of those objections to the second respondent once-again, so as to enable the second respondent to pass orders on merits and in accordance with law.

8.Accordingly, this Writ Petition is disposed of as follows:

(a)the Petitioner is directed to furnish a copy of the objections already filed by him to the second respondent within a period of seven days from the date of receipt of a copy of this order; and

(b)on receipt of such copy of the objections, the second



respondent shall consider the same and pass orders on merits and in accordance with law, within a period of three weeks thereafter.

We make it very clear that we don't express any view on the merits of the claim made by the Petitioner, as it is for the second respondent to consider and decide the same. No costs Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (AS)

// True Copy //

Sub Assistant Registrar (CS)

vsn

To

1.The District Collector,
Office of the District Collector,
Madurai District.

2.The Commissioner,
Office of the Commissioner,
Madurai Corporation,
Madurai.

+1 CC to M/s.N.SHANMUGA SELVAM, Advocate (SR-84301[F] dated 29/08/2019)

+1 CC to M/s.R.ALAGUMANI, Advocate (SR-84311[F] dated 29/08/2019)

ORDER MADE IN
W.P (MD) NO.18638 OF 2019
and
W.M.P (MD) No.15005 of 2019
28.08.2019

KK/SAR/04.09.2019/3P-5C/