



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

AND

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P(MD)NO.18534 OF 2019

and

W.M.P(MD)No.14933 of 2019

T.Lakshmanan

:Petitioner

.vs.

1.The Regional Director of Municipalities,  
Palayamkottai,  
Tirunelveli - 627 002,  
Tirunelveli District.

2.The Commissioner,  
Sankarankovil Municipality,  
Sankarankovil,  
Tirunelveli District.

: 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 pertaining to the impugned notice in Na.Ka.No.1636/2019/F1, dated 8.8.2019 issued by the second respondent and to quash the same as void and unlawful.

For Petitioner

:Mr.F.X.Eugene

For Respondent-1

:Mr.VR.Shanmuganathan  
Special Govt.Pleader

For Respondent-2

:Mr.P.Mahendran

**O R D E R**

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

This Writ Petition is filed challenging the notice, dated 8.8.2019 issued by the second respondent, wherein and whereby, the Petitioner was called upon to produce the relevant documents in respect of the construction put up by the Petitioner in the property referred to in the impugned notice, which according to the second respondent, is an encroachment.



2. Heard the learned counsel for the Petitioner and the learned counsels appearing for the respondents.

3. The main contention raised in this Writ Petition is that the second respondent has no jurisdiction to issue the impugned notice, having admitted that the alleged encroachment is in Government Poramboke land. Therefore, according to the Petitioner, the second respondent is not the competent authority and on the other hand, it is only the Revenue Authorities who can, at best, take action. Alternately, it is submitted by the learned counsel for the Petitioner that the Petitioner has not encroached any Government land and on the other hand, the subject-matter construction is put up in his private land.

4. The learned counsels appearing for the respondents, on the other hand, submitted that if the Government land lies in the road margin, the same is vested with the local authority namely, the Municipality and hence the second respondent herein is having the jurisdiction to issue the notice. Therefore, it is contended that the Petitioner has to give only the explanation/reply to the impugned notice, so as to enable the second respondent to consider his objection and pass appropriate orders on merits and in accordance with law.

5. Upon perusal of the impugned notice and considering the submissions made by both sides, it is evident that the impugned notice has only called upon the Petitioner to produce the material documents in support of his claim. Needless to say that it is open to the Petitioner to raise all the objections as has been raised in this Writ Petition before the second respondent, so as to enable him to take a decision on merits and in accordance with law. Without doing so, the Petitioner has come forward to file the present Writ Petition, which in our considered opinion, is highly pre-mature.

6. Accordingly, this Writ Petition is disposed of, directing the Petitioner to give explanation to the said notice within a period of two weeks from the date of receipt of a copy of this order. On receipt of such explanation, the second respondent is directed to pass a speaking order on merits and in accordance with law, within a period of four weeks thereafter. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS )



W.P(MD)NO.18534 OF 2019  
and  
W.M.P(MD)No.14933 of 2019

To

1.The Regional Director of Municipalities,  
Palayamkottai,  
Tirunelveli - 627 002,  
Tirunelveli District.

2.The Commissioner,  
Sankarankovil Municipality,  
Sankarankovil,  
Tirunelveli District.

+1 CC to Mr.F.X.EUGENE, Advocate SR-83589.  
+1 CC to SPL GP SR-83963.

**ORDER MADE IN**  
**W.P (MD) NO.18534 OF 2019**  
**and**  
**W.M.P (MD) No.14933 of 2019**  
**27.08.2019**

vsn  
CS(10.09.2019) 3P 5C