



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.09.2019

CORAM

**THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE R.THARANI**

W.P. (MD) .No.19121 of 2019

and

W.M.P. (MD) .Nos.15469 and 15471 of 2019

Mr.Lakshmanan

... Petitioner

Vs.

1.The Government of Tamil Nadu
represented by its Chief Secretary,
Fort St. George,
Chennai -9.

2.The Commissioner,
Directorate of Town and Country Planning,
Opposite to CIC, Chengalvaragan Building,
Fourth Floor, 807, Anna Salai,
Chennai 02.

3.The District Collector / Chairman,
Nagercoil Local Planning Authority,
Kanyakumari District.

4.The Commissioner,
Nagercoil Corporation,
Kanyakumari District.

5.Mrs.Latha Jeyaseelan

... Respondents

Prayer:- Writ Petition is filed under Article 226 of the Constitution of India for issuance of a writ of Certiorarified Mandamus to call for the records pertaining to the impugned final notice dated 27.08.2019 issued by the fourth respondent in Na.Ka.No.5931/2019/F2 and quash the same as illegal.

For Petitioner	: No Appearance
For R1 to R3	: Mr.M.Murugan
	Government Advocate



For R4 : Mr.P.Athimoolapandian
Standing counsel
For R5 : Mr.K.Hema Karthikeyan

O R D E R

(Order of the Court was made by **T.S.SIVAGNANAM, J.**)

None appears for the petitioner.

2. Heard Mr.M.Murugan, learned Government Advocate appearing for the respondents 1 to 3, Mr.P.Athimoolapandian, learned Standing counsel appearing for the fourth respondent and Mr.Mr.K.Hema Karthikeyan, learned counsel appearing for the fifth respondent.

3. When the writ petition was heard on 30.08.2019, the following order was passed.

"Mr.VR.Shanmuganathan, learned Special Government Pleader takes notice for the respondents 1 to 3. Mr.Athimoolapandian, learned Standing counsel takes notice for the fourth respondent.

2.Issue notice to the fifth respondent returnable by 06.09.2019. Private notice is also permitted.

3.The petitioner is aggrieved against the demolition notice, dated 27.08.2019. The petitioner claims to be the tenant under the fifth respondent in respect of the subject matter premises. According to the petitioner, the contention raised in the impugned proceedings as if the construction was made unauthorisedly, is factually in correct. Though such contention is raised by the petitioner, the learned counsel appearing for the 4th respondent Corporation informed that the fifth respondent being the owner has already agreed to demolish the unauthorised construction within a period of three days through her communication, dated 08.08.2019. Therefore, he submitted that the petitioner cannot have any better claim than his owner namely, the fifth respondent. He has also shown such communication alleged to have been sent by the fifth respondent to the fourth respondent in the WhatsApp message from his mobile phone.

4.Perusal of the said communication, prima facie, indicates that the fifth respondent has already agreed to remove the unauthorised construction. Therefore, the petitioner is not justified in seeking the relief in the present writ petition.



5. At this juncture, the learned counsel for the petitioner seeks time to remove the belongings kept in the premises and for such purpose, he seeks a reasonable time. In order to ascertain as to whether the petitioner is the tenant under the 5th respondent and if it is so, only for the purpose of granting time to the petitioner to remove the belongings kept inside the subject matter premises, notice is issued to the respondents as stated supra. It is made clear that the petitioner is not entitled to canvass the merits of the notice any further in view of the above-stated facts and circumstances.

6. Post the matter on 06.09.2019. Till such time, the fourth respondent shall maintain status quo in pursuant to the impugned demolition notice."

4. In terms of the above order, no right accrued in favour of the petitioner and if the fifth respondent wants to remove the structure by herself, the Court granted liberty.

5. It appears that the fifth respondent has given a letter stating that she is ready to remove the structure. However, the petitioner is a tenant in respect of the said premises. The petitioner had been unsuccessful in this writ petition as his rights have been completely foreclosed after the order dated 30.08.2019. Therefore, the petitioner cannot argue the merits of the matter. Hence, the Writ Petition is dismissed and the respondent Corporation is directed to give 24 hours time to the writ petitioner to remove the belongings, otherwise departmentally remove the belongings and demolish the structure. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (AD I)

// True Copy //

Sub Assistant Registrar (CS)

akv
To

1. The Chief Secretary,
Government of Tamil Nadu,
Fort St. George,
Chennai -9.



2.The Commissioner,
Directorate of Town and Country Planning,
Opposite to CIC, Chengalvaragan Building,
Fourth Floor, 807, Anna Salai,
Chennai 02.

3.The District Collector / Chairman,
Nagercoil Local Planning Authority,
Kanyakumari District.

4.The Commissioner,
Nagercoil Corporation,
Kanyakumari District.

+1 CC to M/s.SPL GP (SR-90538[F] dated 30/09/2019)

+1 CC to M/s.J. PANDI DORAI, Advocate (SR-91019[F] dated
03/10/2019)

W.P. (MD) .No.19121 of 2019

30.09.2019

_KM/ (16.10.2019) 4P 7C