



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 03.09.2019

CORAM:

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

W.P. (MD) No.12054 of 2018
and
W.M.P. (MD) No.10992 of 2018

K.Thiyagarajan

... Petitioner

-vs-

1.The District Collector
District Collector's Office
Trichy-1, Trichy District

2.The Assistant Engineer
Public Works Department /
River Control Division
Uppiliyapuram Irrigation Branch
Thuraiyur, Thuraiyur Taluk
Trichy District

3.The Tahsildar
Taluk Office
Thuraiyur
Trichy District

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus, calling for the records relating to the 2nd respondent proceedings made in Letter No.Ko.26/2017/U.Po.(U)/dated 08.12.2017, quash the same and further direct the 2nd respondent to follow the due process of law before taken eviction process.

For Petitioner : Mr.R.Sundar

For Respondents : Mr.A.K.Baskara Pandian
Special Government Pleader

O R D E R

[Order of the Court was made by T.S.SIVAGNANAM, J.]

Heard Mr.R.Sundar, learned counsel appearing for the
<https://hcservices.courts.gov.in/hcservices/> Mr.A.K.Baskaran Pandian, learned Special Government
Pleader appearing for the respondents.



2. With the consent of both sides, the writ petition is taken up for disposal.

3. The petitioner has challenged the proceedings, dated 08.12.2017, issued by the second respondent, by which he has been directed to vacate and handover vacant possession of the area, which is occupied by him, on the ground that it is a government poramboke land.

4. The petitioner's case rests upon an award passed by the Lok Adalat, dated 12.11.2016, organized at Thuraiyur and presided over by the learned District Munsif, Thuraiyur. Though a copy of the award passed by the Lok Adalat is enclosed in the typed set of papers, which records the compromise memo filed by the parties, the said compromise memo has not been enclosed in the typed set of papers. Presumably for such reason the matter was adjourned by the Division Bench on an earlier occasion. Today, the learned counsel for the petitioner has produced a photocopy of the compromise memo, wherein both parties, namely, the writ petitioner and the Public Works Department agreed that the petitioner will not be evicted without due process of law.

5. Considering these facts and also taking note of the settled position of law that a person though stated to be an encroacher should be dealt with only in accordance with law, we are of the view that though the petitioner cannot expect that a full-fledged hearing should be given to him, but at least he should be put on notice. We find from the documents placed before the Court that there is nothing to show that the petitioner has title over the property and all that he would state that he is in possession and enjoyment of the property for several decades, even assuming the same is true, it will not confer any title on him in respect of the Government land.

6. In the light of the above, we dispose of the writ petition by directing the impugned order, dated 08.12.2017, to be treated as a show-cause notice and the petitioner is granted three weeks time from the date of receipt of a copy of this order to file his objections before the second respondent. Upon considering the objections and the documents, which the petitioner would produce, the second respondent shall take a decision and proceed in accordance with law.

7. Accordingly, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD-II)

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To

1.The District Collector,
District Collector's Office,
Trichy-1, Trichy District.

2.The Assistant Engineer,
Public Works Department /
River Control Division,
Uppiliyapuram Irrigation Branch,
Thuraiyur, Thuraiyur Taluk,
Trichy District.

3.The Tahsildar,
Taluk Office,
Thuraiyur,
Trichy District.

+1 CC to Mr.R. SUNDAR, Advocate (SR-85012[F] dated 04/09/2019)
+1 CC to SPL GP (SR-85338[F] dated 05/09/2019)

W.P. (MD) No.12054 of 2018

and

W.M.P. (MD) No.10992 of 2018

03.09.2019

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