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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 12.09.2019

CORAM:

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

W.P.(MD) No.24365 of 2018
and W.M.P.(MD) Nos.22041 and 22042 of 2018

Vijaya ... Petitioner

-vs-

1.The Department of Municipal Administration and
Water Supply,
Represented by its Principal Secretary,
Fort St. George,
Chennai - 09.

2.The District Collector,
Madurai District,
Madurai - 625 020.

3.The Public Works Department,
Represented by its Executive Engineer,
Irrigation Section No.II,
Periyar Vaigai Basin Sub Division No.I,
Madurai - 625 002.

4.The Tamil Nadu Slum Clearance Board,
Represented by its Superintending Engineer,
169, K.K.Nagar Main Road,
Opp. Jawahar Hospital,
Madurai - 625 020.

5.The Assistant Engineer,
The Public Works Department,
Irrigation Section No.II,
Periyar Vaigai Basin Sub Division No.I,
Madurai - 625 002. ... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the Impugned Notice dated 28.11.2018 on the file of the Respondent No.5 and quash the same as illegal and consequently forbear the respondents from evicting the petitioner in Plot No.35, Survey No.23/24, Bibikulam Part - I, Old No.22, New

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No.8, Mullai Nagar, Ex. Servicemen Colony, Madurai District without following the due process of law.

For Petitioner : Mr.R.Karunanidhi
For Respondents 1 to 3 & 5 : Mr.A.K.Baskarapandian
Special Government Pleader
For 4th Respondent : Mr.P.Mahendran
Standing Counsel

O R D E R

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

Heard Mr.R.Karunanidhi, learned counsel appearing for the petitioner, Mr.A.K.Baskara Pandian, learned Special Government Pleader appearing for the respondents 1 to 3 & 5 and Mr.P.Mahendran, learned Standing Counsel appearing for the fourth respondent.

2.The petitioner has filed this Writ Petition for issuance of a Writ of Certiorarified Mandamus, praying to call for the records pertaining to the Impugned Notice dated 28.11.2018 on the file of the Respondent No.5 and to quash the same as illegal and consequently to forbear the respondents from evicting the petitioner in Plot No.35, Survey No.23/24, Bibikulam Part – I, Old No.22, New No.8, Mullai Nagar, Ex. Servicemen Colony, Madurai District without following the due process of law.

3.It is submitted by the learned counsel appearing for the petitioner and the learned counsel appearing for the respondents that an identical issue was decided by this Court in W.P.(MD) No.25039 of 2018, dated 09.08.2019 and it was disposed by issuing the following directions:

> "6.In the light of the above facts and circumstances of the case, this Court without going into the merits of the claim made by the petitioners in this writ petition, treats the impugned notices as Show Cause Notices, for which the petitioners are permitted to submit their detailed individual responses with supporting documents of genuineness and authenticity to the first respondent within a period of three weeks from the date of receipt of a copy of this order and on receipt of the same, the first respondent is directed to consider the same on merits and in accordance with law and if required, give the petitioners an opportunity of personal hearing and thereafter, pass appropriate orders within a period of six weeks thereafter and communicate the decision taken to the petitioners and till such time the possession and enjoyment of the

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> petitioners in respect of the lands and the superstructures in question shall not be disturbed. It is made clear that till a decision is taken by the first respondent on the response to be submitted by the respective petitioner, they shall not create any third party right in respect of the lands in question as well as the superstructures put up therein and cooperate with the first respondent for expeditious conclusion of the enquiry. In the absence of necessary materials as to the obtaining of planning permission and putting up of superstructure in accordance with law, the Commissioner, Madurai City Municipal Corporation is directed to disconnect the drainage connection granted to the respective premises within a period of four weeks from the date of receipt of a copy of this order."

4.Following the above decision, we directs the petitioner to treat the impugned notice as a Show Cause Notice, for which, the petitioner is permitted to submit her detailed response with supporting documents of genuineness and authenticity to the fifth respondent within a period of three weeks from the date of receipt of a copy of this order and on receipt of the same, the fifth respondent is directed to consider the same on merits and in accordance with law and if required, give the petitioner an opportunity of personal hearing and thereafter, pass appropriate orders within a period of six weeks thereafter and communicate the decision taken to the petitioner and till such time the possession and enjoyment of the petitioner in respect of the land and the superstructure in question shall not be disturbed. It is made clear that till a decision is taken by the fifth respondent on the response to be submitted by the petitioner, she shall not create any third party right in respect of the land in question as well as the superstructure put up therein and cooperate with the fifth respondent for expeditious conclusion of the enquiry. In the absence of necessary materials as to the obtaining of planning permission and putting up of superstructure in accordance with law, the Commissioner, Madurai City Municipal Corporation is directed to

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disconnect the drainage connection granted to the petitioner's premises within a period of four weeks from the date of receipt of a copy of this order.

5.The Writ Petition is disposed of with the above directions. Consequently, connected Miscellaneous Petitions are closed. No costs.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar(CS)

To

1.The Principal Secretary,
Department of Municipal Administration and Water Supply,
Fort St. George,
Chennai - 09.

2.The District Collector,
Madurai District,
Madurai - 625 020.

3.The Executive Engineer,
Public Works Department,
Irrigation Section No.II,
Periyar Vaigai Basin Sub Division No.I,
Madurai - 625 002.

4.The Superintending Engineer,
Tamil Nadu Slum Clearance Board,
169, K.K.Nagar Main Road,
Opp. Jawahar Hospital,
Madurai - 625 020.

5.The Assistant Engineer,
The Public Works Department,
Irrigation Section No.II,
Periyar Vaigai Basin Sub Division No.I,
Madurai - 625 002.

Copy to:
The Commissioner,
Corporation of Madurai,
Madurai

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+1 CC to Mr.R.KARUNANIDHI, Advocate (SR-86475[F] dated 13/09/2019)
+1 CC to Mr.P.MAHENDRAN, Advocate (SR-86715[F] dated 13/09/2019)

W.P.(MD) No.24365 of 2018
and W.M.P.(MD) Nos.22041 and 22042 of 2018
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(1/6)

sj
MK (26.09.2019) 5P 9C

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