



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 04.09.2019
CORAM:

WEB COPY

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

Writ Petition (MD).No.20485 of 2017
and W.P(MD).No.17966 of 2019
and W.M.P(MD).Nos.16757 and 18625 of 2017
and W.M.P(MD).Nos.14432 and 14433 of 2019

W.P(MD).No.20485 of 2017

R.Lakshmana Perumal ... Petitioner
Vs.

1.The District Collector,
Tuticorin District,
Tuticorin.

2.The Tahsildar,
Vilathikulam Taluk,
Tuticorin District.

3.The Executive Officer,
V.Pudur Town Panchayat,
V.Pudur, Tuticorin.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records pertaining to the impugned notice passed by the third respondent in Na.Ka.No.75/2017 dated 13.10.2017 and quash the same as illegal.

For Petitioner : Mr.R.Murali
For Respondents : Mr.A.K.Baskarapandian (for R1 & R2)
Special Government Pleader
Mr.J.Gunaselanmuthiah (for R3)

W.P(MD).No.17966 of 2019

R.Lakshmana Perumal ... Petitioner
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Prayer: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records pertaining to the impugned notice passed by the third respondent in Na.Ka.No.75/2017 dated 13.08.2019 and quash the same as illegal.

For Petitioner : Mr.R.Murali
For Respondents : Mr.A.K.Baskarapandian (for R1 & R2)
Special Government Pleader
Mr.J.Gunaselanmuthiah (for R3)

COMMON ORDER

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

Heard Mr.R.Murali, learned counsel for the petitioner, Mr.A.K.Baskarapandian, learned Special Government Pleader appearing for the respondents 1 and 2 and Mr.J.Gunaselanmuthiah, learned counsel appearing for the third respondent.

2.R.Lakshmanaperumal is the petitioner in both the writ petitions. The first writ petition is of the year 2017 and the second writ petition filed in the year 2019. The first writ petition was filed challenging the eviction notice dated 13.10.2017. This was challenged on the ground that without affording an opportunity, the petitioner was sought to be evicted. The reason being a Public Interest Litigation, which was filed by one M.Karuppasamy in W.P(MD).No.8686 of 2017. It was disposed of by order dated 11.09.2017 directing the Tahsildar, Vilathikulam Taluk, to enquire into the matter and if there is any encroachment, the same should be removed by following the statutory procedure. A statutory procedure would mean to issue notice and conduct enquiry and then pass an order. However, without following the same, the order dated 13.10.2017 was passed, which was challenged by the petitioner in W.P(MD).No.20485 of 2017 and an order of interim stay is in operation. It appears that the Public Interest Litigant, who had filed W.P(MD).No.8686 of 2017, had filed a contempt petition in Cont.P(MD).No.951 of 2019 alleging disobedience of the order passed in the writ petition. On receiving notice in the contempt petition, the Tahsildar had directed the third respondent to issue the impugned notice, dated 13.08.2019, which is identical to the notice dated 30.10.2017, which is impugned in W.P(MD).No.20485 of 2017. When there is an interim order in favour of the petitioner, a second order of eviction could not have been passed. Therefore, the order dated 13.08.2019 has to necessarily go.

3. Insofar as the relief sought in W.P(MD).No.20485 of 2019 is concerned, the petitioner pleads that he did not have reasonable



opportunity. On reading of the order shows that no opportunity was granted and straightaway eviction order has been passed. Therefore, the following order will meet the ends of justice.

4. For all reasons set out above, W.P(MD).No.17966 of 2019 is allowed and the impugned notice dated 30.08.2019 is set aside. W.P (MD).No.20485 of 2017 is disposed of with a direction to the petitioner to treat the impugned notice as the show-cause notice and submit his objection within a period of three weeks from the date of receipt of a copy of this order. On receipt of the objections, the third respondent shall enquire into the matter. It necessary, to conduct a spot inspection and pass a speaking order on merits and in accordance with law. We further direct the third respondent to adopt uniform procedure and there can be no discrimination among the persons in that locality, as there appears to be several houses in the area. Further, the petitioner is permitted to produce all documents in support of his claim that there is no encroachment. Till the enquiry is completed and orders are passed in terms of the above directions, status-quo, which is prevailing as on today, shall be maintained. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar(CS)

To

1. The District Collector,
Tuticorin District,
Tuticorin.
2. The Tahsildar,
Vilathikulam Taluk,
Tuticorin District.
3. The Executive Officer,
V.Pudur Town Panchayat,
V.Pudur, Tuticorin.

+1 CC to Mr.S.M.S. JOHNYBASHA, Advocate (SR-85221[F] dated 05/09/2019)

+1 CC to Mr.J.GUNASEELANMUTHIAH, Advocate (SR-85542[F] dated 06/09/2019)

+1 CC to MR.R.MURALI, Advocate (SR-85205[F] dated 05/09/2019)

+1 CC to SPL GP (SR-85605[F] dated 06/09/2019)

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