

IN THE HIGH COURT OF JUDICIATURE AT MADRAS

DATED : 10.02.2020

CORAM :

THE HONOURABLE MR.JUSTICE R.SUBBIAH
and
THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

W.P.No.2084 of 2020
& W.M.P.No.2432 of 2020

C.Shanmugam Petitioner
versus

1.The District Collector,
Ranipet District,
Ranipet.

2.The Tahsildar,
Walajah Taluk,
Walajah, Ranipet District.

3.The Block Development Officer,
Arcot Taluk,
Ranipet District.

4.The Village Administrative Officer,
Thalanoor Village,
Walajah Taluk,
Ranipet District.

Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the third respondent from evicting the petitioner from property situated at 2/401, Bharathi Nagar, Thalanoor Village, Walajah Taluk, Ranipet District only after holding an enquiry.

For Petitioner : Mr.V.Bhiman

For Respondents: Mr.E.Balamurugan
Special Government Pleader

* * * * *

O R D E R

[Order of this Court was made by R.SUBBIAH,J.]

The petitioner has come up with the present Writ Petition for a Mandamus, directing the third respondent not to evict the petitioner from the property situated at 2/401, Bharathi Nagar, Thalanoor Village, Walajah Taluk, Ranipet District, only after holding an enquiry.

2. It is the case of the petitioner that he is residing at 2/401, Bharathi Nagar, Thalanor Village, Walajah Taluk, Ranipet District. One Padmini, who is having her plot behind petitioner's house, with a view to have access to her plot, has filed a Writ Petition before this Court in W.P.No.13373 of 2018 seeking for a direction to direct the third respondent therein to remove the house put up by the petitioner. At the time of admission, this Court directed the third respondent to put the petitioner on notice and take action to remove the alleged encroachment. Thereafter, the third respondent issued a notice dated 05.09.2018 to the petitioner for eviction and also directed the petitioner to remove the superstructure put up by him. On receipt of the said notice, the petitioner has approached this Court in W.P.No.29624 of 2018. This Court, by order dated 12.11.2018, directed the third respondent to pass a final order by providing necessary opportunity to the petitioner to produce the documentary evidence to substantiate his version. But without giving any opportunity of hearing to the petitioner, the order has been passed by the Block Development Officer and hence, the petitioner is before this Court with the present Writ Petition.

3. Heard the learned counsel appearing for the petitioner as well as the learned Special Government Pleader appearing for the respondents and perused the materials available on record.

4. The learned Special Government Pleader appearing for the respondents submitted that, on three occasions, notices have been sent to the petitioner through registered post and the same were returned by the Postal Department with an endorsement as "Door Locked". On one occasion, notice was served on the petitioner personally, inspite of the same, the petitioner has not chosen to appear for the enquiry and hence, the order has been passed by the Block Development Officer.

5. In fact, this Court, based on the representation of the petitioner, called for the records and verified that the notices have been served on him. Since notices have been served, now this Court cannot set aside the order passed by the Block Development Officer. However, the petitioner is having an appellate remedy before the first respondent. Hence, the petitioner is directed to submit an appeal challenging the order dated 17.12.2019 to the first respondent, within a period of two weeks from the date of receipt of a copy of this order. On receipt of the said appeal, the first respondent is directed to consider the same and pass appropriate orders, on merits and in accordance with law, after affording an opportunity of personal hearing to the petitioner, within a period of six weeks thereafter.

6. The Writ Petition is disposed of accordingly. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

sri
To

- 1.The District Collector,
Ranipet District,
Ranipet.
- 2.The Tahsildar,
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Walajah, Ranipet District.
- 3.The Block Development Officer,
Arcot Taluk,
Ranipet District.
- 4.The Village Administrative Officer,
Thalanoor Village,
Walajah Taluk,
Ranipet District.

+1cc to Mr.V.Bhiman , Advocate SR.No. 10280

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spd
A.SK(23/03/2020)

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