



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.09.2020

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

W.P. (MD)No.10899 of 2020

and

W.M.P (MD)No.9575 of 2020

S.K.Chinna Pandi

... Petitioner

Vs.

1.The Commissioner,
Madurai Corporation,
Anna Maaligai,
Madurai - 625 002.

2.The Assistant Commissioner,
Zone 3, Madurai Corporation,
New Ramnad Road,
Navarathinapuram,
Madurai - 9.

3.The Special Tahsildar,
South Taluk,
Madurai.

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned notice issued by the first respondent through proceedings No.Nil, dated 18.08.2020, in respect of the petitioner's house property situated in S.No.1-2, as per the third respondent's Anupantha Assignment Order No.DIS 24 H.S.54, dated 18.12.1954, for Door No.4/217, backside of Vinayagar Temple, Ayyanarpuram, Ward No.56 of Madurai Town, Madurai - 625 009, on the file of the first respondent and quash the same as illegal and also forbear the first respondent from dispossessing the petitioner from the petitioner's house property bearing Door No.4/217, backside of Vinayagar Temple, Ayyanarpuram, Ward No.56 of Madurai Town, Madurai - 625 009.

For Petitioner : Mr.R.Santhanam

For Respondents : Mr.R.Murali
Standing Counsel for R.1 & R.2

Mr.R.Murugan
Additional Government Pleader for R.3



ORDER

(Order of the Court was made by **M. SATHYANARAYANAN, J.**)

The petitioner is a resident of Door No.4/217, backside of Vinayagar Temple, Ayyanarpuram, Ward No.56 of Madurai Town, Madurai - 625 009 and according to him, his maternal grandmother, namely, Rengammal, wife of Ponnuamy Konar, occupied the property and put up a superstructure in S.No.1-2 of Ayyanarpuram Village and thereafter, applied to the Tahsildar, Madurai Taluk, Madurai, for free house site patta and it was also accepted and Anupantha Patta came to be issued for S.No.1-2, on 11.03.1954, having the measurement of 11 cents with clear boundaries. Thereafter, a superstructure was also put up and pursuant to the registered Will, dated 25.05.1963, executed in favour of the petitioner, he came into possession after her demise on 21.06.1963 and continues to remain in possession and enjoyment of the said land.

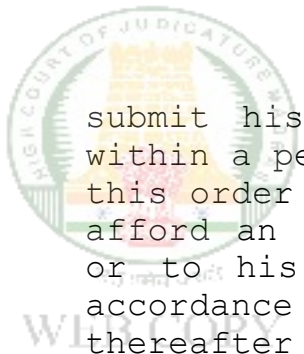
2. The grievance expressed by the petitioner is that all of a sudden, the first respondent issued the impugned notice stating as if the land and superstructure put up by the petitioner lies within *Ulagammal Oorani* (water body) with a specific measurement and challenging the legality of the same, the petitioner came forward to file this writ petition.

3. Learned Counsel for the petitioner submitted that the impugned notice is, *per se*, unsustainable for the reason that before issuing the same, the first respondent did not look into the relevant provisions and it would also exhibit total non-application of mind on the part of the first respondent and hence, prays for interference.

4. Mr.R.Murali, learned Standing Counsel accepts notice on behalf of the respondents 1 and 2 and on instructions, would submit that as per the sketch relating to S.Nos.1/2 and 25/3, there are encroachments found on the said water body, which includes the encroachment caused by the petitioner and other encroachers should also be identified and immediate and necessary action would be taken to evict all the encroachments in the light of the relevant provisions of the Madurai City Municipal Corporation Act and prays for the dismissal of this writ petition.

5. This Court has considered the rival submissions and perused the materials placed on record.

6. This Court, taking into consideration the above facts and circumstances of the case and without going into the merits of the claim projected by the petitioner in this writ petition, directs the first respondent to treat the impugned notice dated, 18.08.2020 as a show cause notice, for which, the petitioner is granted liberty to



submit his reply along with relevant and authenticated documents within a period of **three weeks** from the date of receipt of a copy of this order and the first respondent, upon receipt of the same, shall afford an opportunity of personal hearing either to the petitioner or to his authorised representative and dispose of the same in accordance with law, within a further period of **four weeks** thereafter and communicate the decision taken to the petitioner. It is also made clear that it is also obligatory on the part of the respondents 1 and 2 to identify all the encroachments in *Ulagammal Oorani* (water body) and take steps in accordance with law for removal of the same.

7. This writ petition stands disposed of accordingly. No costs. Consequently, the connected writ miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

RSB

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Commissioner,
Madurai Corporation, Anna Maaligai, Madurai - 625 002.

2.The Assistant Commissioner,
Zone 3, Madurai Corporation,
New Ramnad Road, Navarathinapuram, Madurai - 9.

3.The Special Tahsildar, South Taluk, Madurai.

+1 CC to M/s.R.SANTHANAM, Advocate (SR-16028[F] dated 07/09/2020)

+1 CC to M/s.GP (SR-16129[F] dated 07/09/2020)

+1 CC to M/s.R. MURALI, Advocate (SR-16044[F] dated 07/09/2020

W.P. (MD)No.10899 of 2020

and

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AP(14/09/2020) 3P 7C

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