



WEB COPY

W.P.(MD)No.15420 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.11.2020

CORAM

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

AND

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P. (MD)No.15420 of 2020

and

W.M.P. (MD)No.12955 of 2020

Bose

... Petitioner

Vs.

- 1.The District Collector,
Sivagangai District,
Sivagangai.
- 2.The District Revenue Officer,
Sivagangai District,
Sivagangai.
- 3.The Revenue Divisional Officer,
Sivagangai,
Sivagangai District.
- 4.The Tahsildar,
Ilayangudi Taluk,
Sivagangai District.
- 5.S.Pugalendhi
- 6.M.Muthukumar
- 7.Chandra Bose

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari to call for the records relating to the impugned eviction notice dated 28.09.2020 on the file of the fourth respondent and quash the same.

For Petitioner	:	Mr.V.Kannan
For Respondents	:	Mr.M.Muthugeethaiyan Special Government Pleader for R.1 to R.4



ORDER

(Order of the Court was made by N.KIRUBAKARAN, J)

The petitioner has challenged the order passed by the fourth respondent, by which, the petitioner was directed to evict the premises. The said order has been passed under Section 6 of the Land Encroachment Act, which is the subject matter of the writ petition.

2. Heard Mr.V.Kannan, learned Counsel appearing for the petitioner and Mr.M.Muthugeethaiyan, learned Special Government Pleader appearing for the official respondents.

3. In view of the order that is to be passed, notice to the private respondents 5 to 7 is dispensed with.

4. It is evident from the records that earlier a writ petition in W.P.(MD)No.22427 of 2018 has been filed by one Sekar making the petitioner as a party, stating that the petitioner encroached upon the public pathway and therefore, he should be removed. This Court, by order, dated 13.12.2018 directed the authorities to issue notice to the petitioner herein and afford opportunity of hearing to him and pass appropriate orders within a period of four months from the date of receipt of a copy of that order. Pursuant to that order only, the present notice under Section 6 of the Land Encroachment Act has been issued, which is the impugned order herein.

5. Even before that, a patta has been issued in respect of the property comprised in Survey No.217/3, which is a pathway and Survey No.217/4, which is classified as a graveyard, which are allegedly encroached upon by the petitioner. The patta was cancelled by the third respondent at the instance of the third parties. Against the cancellation of the patta, the petitioner has filed an appeal before the second respondent and the same is pending.

6. Considering the fact that the appeal has been pending before the second respondent, namely, the District Revenue Officer, against the cancellation of patta granted in favour of the petitioner, it is appropriate to direct the second respondent to dispose of the appeal. Accordingly, the second respondent is directed to dispose of the appeal filed by the petitioner on merits and in accordance with law within a period of four weeks from the date of receipt of a copy of this order. Till the disposal of the appeal pending before the second respondent, the impugned notice is kept in abeyance, subject to the result of the appeal. The respondents 1 to 4 are directed to proceed further. It is also made clear that the petitioner shall not create any third party interest in the meanwhile.



7. With the above directions, the Writ Petition stands disposed of. No costs. Consequently, the connected Writ Miscellaneous Petition is closed.

Sd/-

Assistant Registrar ()

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// True Copy //

/ /2020

Sub Assistant Registrar(CS)

SSL

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 District Collector,
Sivagangai District,
Sivagangai.
- 2.The District Revenue Officer,
Sivagangai District,
Sivagangai.
- 3.The Revenue Divisional Officer,
Sivagangai,
Sivagangai District.
- 4.The Tahsildar,
Ilayangudi Taluk,
Sivagangai District.

+1 CC to M/s.SPL GP (SR-21625[F] dated 09/11/2020)

W.P. (MD)No.15420 of 2020
05.11.2020

VR (CO)
KB(18.11.2020) 3P 6C