



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE **N.KIRUBAKARAN**
AND
THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

W.P. (MD)No.17147 of 2020

and

W.M.P. (MD)Nos.14312 & 14315 of 2020

Allah Pitchai : Petitioner

Vs.

1.The Municipality Commissioner,
O/o. The Municipality Commissioner,
Puliyankudi Municipality,
Tenkasi District.

2.Ameenal Beevi : Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking a Writ of Ceriorarified Mandamus to call for the records pertaining to the impugned order of the 1st respondent in Na.Ka.No.3816/2019/F1, dated 29.10.2020 and quash the same as illegal and consequently, to restrain the 1st respondent, his subordinates, servants and men from interfering the petitioner's peaceful occupation in the house in Door No.68, Chithamparaperi Thenvadal Street, Puliyankudi, Tenkasi District.

For Petitioner : Mr.S.M.A.Jinnah

For Respondents: Mrs.J.Padmavathi Devi,
Special Government Pleader
for R.1

ORDER

(Order of the Court was made by **B.PUGALENDHI, J.**)

This writ petition is filed by the petitioner as against the order of the first respondent in Na.Ka.No.3816/2019/F1, dated 29.10.2020, in and by which, the petitioner was directed to remove the encroachment made by him in Thenvadal Street, Puliyankudi Municipality, Tenkasi District.



2. According to the petitioner, he is residing in Door No.68, Chithamparaperi Thenvadal Street, Puliyankudi, Tenkasi District and he is in peaceful possession of the same. However, at the instance of the second respondent, the first respondent has issued the impugned notice, without even signing the notice, that the petitioner is an encroacher. In fact, it is the second respondent, who has encroached the Government land, however, the impugned notice came to be issued as against the petitioner, that too, without affording him an opportunity of personal hearing.

3. Heard the learned Counsel appearing for the petitioner and the learned Special Government Pleader, who took notice on behalf of the 1st respondent.

4. It is true that the impugned notice issued under Section 182 of the Tamil Nadu District Municipalities Act, 1920, to remove the encroachment made by the petitioner, is based on the representation of the second respondent dated 05.10.2020. According to the impugned notice, the petitioner has encroached upon the street at Chithamparaperi Thenvadal Street, Puliyankudi Village, by putting up certain construction. Though the petitioner has refuted the allegation, his main grievance is that without affording him an opportunity of personal hearing to put forth his case, the impugned notice came to be issued.

5. Considering the limited plea raised by the petitioner, this Court, without going into the merits of the case, directs the petitioner to submit his explanation, if any, to the impugned notice dated 29.10.2020, by considering the same as a show cause notice, within a period of two weeks from the date of receipt of a copy of this order. On receipt of such explanation, if any, the first respondent shall consider the same, measure the property in the presence of the petitioner, identify the portion of encroachment, if any, and thereafter, remove the same, within a further period of four weeks thereafter. Till such time, the petitioner's possession shall not be disturbed.

6. If the first respondent incurs any expense towards the removal of encroachment made by the petitioner, if any, it is always open to the first respondent to recover the same from the petitioner, as per Section 340 of the Tamil Nadu District Municipalities Act, 1920. Needless to say that it is also open to the first respondent to impose penalties as against the encroacher, as per Section 313(1) of the Tamil Nadu District Municipalities Act, 1920.



7. With the above directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-II)

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/ /2020

Sub Assistant Registrar(CS)

gk

To

The Municipality Commissioner,
O/o. The Municipality Commissioner,
Puliyankudi Municipality,
Tenkasi District

W.P. (MD) No.17147 of 2020

08.12.2020

KM(CO)

NR (16/12/2020) 3P : 2C