



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 25.02.2020
CORAM:

THE HONOURABLE MR.JUSTICE S.S. SUNDAR

W.P.(MD).No.17161 of 2015
and M.P.(MD).No.1 of 2015

T.Pandiyarajan

.. Petitioner

Vs.

1.The Director of Municipal Administration,
Ezhilagam Buildings Annexure,
6th Floor, Chepauk,
Chennai - 600 005.

2.The District Collector,
Theni District, Theni.

3.The Commissioner,
Chinnamanur Municipality,
Chinnamanur Taluk,
Theni District.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of Writ of Mandamus, directing the respondents to restore the petitioner property situated at Old Door No.5-2-208, New No.4-3-208, Muthalamman Kovil Street, Ward No.4, Chinnamanur Taluk, Theni District, demolished by the 3rd respondent, otherwise to pay the damages of Rs.20,00,000/- caused by the 3rd respondent on considering the petitioner's representation, dated 03.09.2015.

For Petitioner : Mr.R.Shankar Ganesh

For Respondents : Mr.A.Thiyagarajan for R1 and R2
Additional Government Pleader
Mr.M.Karuppasamy Pandian for R3

ORDER

This writ petition is filed for issuance of writ of Mandamus directing the respondents to restore the petitioner property situated at Old Door No.5-2-208, New No.4-3-208, Muthalamman Kovil Street, Ward No.4, Chinnamanur Taluk, Theni District, demolished by the 3rd respondent, otherwise to pay the damages of Rs.20,00,000/- caused by the 3rd respondent on considering the petitioner's representation, dated 03.09.2015.



2.The dispute in this case is between the petitioner and local body about the property stated to have been in possession and enjoyment of the petitioner by putting up a construction. The learned counsel appearing for the petitioner states that the property is the private property of the petitioner and that the building of the petitioner was demolished and the property was taken unlawfully by the respondents.

3.On the other hand, the learned counsel appearing for the respondent relying upon the counter affidavit filed by the third respondent submitted that the property in which the construction was put up by the petitioner is part of public property. It is stated that the portion in which the petitioner has constructed a building is Government poramboke, which was later known as Manthai Theru. Though it is admitted by the Commissioner that building which was in the property was assessed in the name of petitioner, it is stated by the third respondent that the Municipality was constrained to cancel the assessment in respect of the building occupied by the petitioner.

4.It is further stated that pursuant to the direction of this Court in a public interest litigation to remove encroachments within the city limit of Madurai, the third respondent started to remove the encroachments from all the properties of local body after following proper procedure. It is stated that the petitioner had encroached in Panchayat Union Office Road and Muthalamman Koil Street and that therefore a general notice under Section 181(2) of Tamilnadu District Municipalities Act 1920 was issued to all the encroachers including the petitioner to remove the encroachments by themselves. Since the petitioner and other encroachers have not come forward to vacate the place, it is stated that with police protection, the encroachments were removed. No record is produced to show that individual notice was served to the petitioner and others before evicting them from the premises. The petitioner has been evicted by issuing a general notice and the respondents have stated that the encroachment was in a public street. Hence, this Court is not inclined to entertain this writ petition to restore and to pass order directing restoration of petitioner's possession accepting the case of petitioner about his title.

5.It is admitted that the petitioner has filed a civil suit and it is pending. Since the petitioner has claimed a sum of Rs.20,00,000/- by way of damages, the petitioner can also seek such prayer before the Civil Court by appropriate amendment in the existing suit to get compensation upon showing that the petitioner was unlawfully evicted from the premises.

6.Thus reserving such liberty to the petitioner to prosecute the suit and seek appropriate remedy for getting compensation and ~~https://hcservices.go~~ amount of illegal eviction, this writ petition is



dismissed. No costs. Consequently, connected miscellaneous petition
is closed.

Sd/-

Assistant Registrar (records)

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// True Copy //

/ /2020

Sub Assistant Registrar(CS)

TM

To

1.The Director of Municipal Administration,
Ezhilagam Buildings Annexure,
6th Floor, Chepauk,
Chennai - 600 005.

2.The District Collector,
Theni District, Theni.

+1 CC to Mr.M.KARUPPASAMY PANDIAN, Advocate (SR-8163[F] dated
25/02/2020)

+1 CC to Mr.R.SHANKAR GANESH, Advocate (SR-8416[F] dated
26/02/2020)

W.P.(MD).No.17161 of 2015
25.02.2020

MK (13.03.2020) 3P 5C