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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.06.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
AND
THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

W.P. No. 12766 of 2021
and
W.M.P. No. 13564 of 2021

Hari Joseph ...Petitioner

Vs

1. The Government of Tamilnadu
Rep. by its Secretary
Revenue Department
Fort St. George, Chennai - 600 009.
2. The District Collector
Thiruvallur District.
3. The Thasildhar
Avadi
Thiruvallur District.
4. The Village Administrative Officer
Pothur
Thiruvallur District. Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Mandamus, directing the Respondents 2 to 4, i.e. The District Collector, Thiruvallur District, The Tahsildar, Avadi and the Village Administrative Officer, Pothur Village, Thiruvallur District, the Second to Fourth Respondents herein not to evict the Petitioner from the residential house at Door No.3, in Survey No. 226, Dr. Ambedkar Nagar, Pothur Village, Ambattur Taluk, Thiruvallur District and further direction to the Respondents 2 and 3 to issue house patta in respect of the land an extent of 3 cents in Survey No. 226, Pothur Village, Thiruvallur District.

For Petitioner : Mr. T.Mohan
for Mr. K.Balakrishnan

For Respondents : Mr. P.Balathandayutham
Standing Counsel



O R D E R
(Order of the court was made by N.KIRUBAKARAN.J.,)

The matter was heard through "Video Conference".

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The Petitioner has come before this Court stating that he is in possession of 3 cents of land comprised in Survey No. 226 by constructing a house bearing Door No.3, Dr.Ambedkar Nagar, Pothur Village Panchayat, Ambattur Taluk, Thiruvallur District from 2015 onwards and the Petitioner has been paying the house tax to the Pothur panchayat on 17.08.2016, 10.01.2019, 01.02.2020 and 22.03.2020. However, the Respondents, without giving any notice, are trying to remove /evict the Petitioner from the residential house at Door No.3, Dr.Ambedkar Nagar, Pothur Village Panchayat, Ambattur Taluk, Thiruvallur District, comprised in Survey No. 226.

2. Mr. T.Mohan, Learned Counsel for the Petitioner submits that as per the earlier order passed by this Court in W.P. No. 22374 of 2018, an opportunity is required to be given to the Petitioner before taking any steps to remove the alleged encroachment. That apart in suo motu Writ Petition No. 11993 of 2021, the First Bench of this Court vide order dated 17.05.2021 directed the authorities not to evict any person till June, 30 2021 and therefore, steps taken by the Respondents to remove the super structure constructed by the Petitioner and disturbing the Petitioner's possession are prohibited.

3. Mr. P.Balathandayutham, Learned State Government Counsel, who takes notice for the Respondents, submits that the Respondents are acting as per the earlier order passed by this Court in Public Interest Litigation in W.P. No. 22374 of 2018 dated 18.03.2019 and therefore, steps taken by the Respondents cannot be interfered with.

4. Heard the parties and perused the materials placed on record.

5. A perusal of the record, especially, the order dated 18.03.2019 passed in W.P. No. 22374 of 2018 reveals that the Petitioner and similarly placed persons are all encroachers in the water body. However, this Court directed the authorities, namely, the official Respondents to give notice and conduct enquiry and pass orders as per law.

6 In this case, though the Learned State Government Counsel appearing for the Respondents submits that they are acting as per the order dated 18.03.2019, Mr. T.Mohan, Learned Counsel for the Petitioner submits that no notice was issued and no enquiry was conducted by the Respondents, before taking the eviction proceedings.



7. This Court also takes notice of the suo motu order passed by this Court in W.P. No. 11993 of 2020 dated 17.05.2021, in which the eviction proceedings are prohibited in general through out the State, in view of the pandemic situation. In view of that, the Respondents are directed to give notice to the Petitioner and conduct enquiry and pass appropriate orders, in the light of the order dated 18.03.2019 passed in W.P. No. 22374 of 2018, within a period of six weeks from the date of receipt of a copy of this order. Till such time, the Respondents are prohibited from evicting or disturbing the possession of the Petitioner.

8. It is evident from the typed set of papers, a resolution has been passed by the said village panchayat in 2019 against the eviction proceedings. The said resolution cannot have any effect, in view of the order passed by this Court in W.P. No. 22374 of 2018 dated 18.03.2019.

9. It is made clear that no order could be passed without giving notice and without hearing the parties. If any order is passed without giving notice and without hearing the private respondent, it would amount to contempt of courts.

10. With the above direction, this Writ Petition is disposed of. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

Maya

To

1.The Secretary,
Government of Tamilnadu
Revenue Department
Fort St. George, Chennai - 600 009.

2. The District Collector,Thiruvallur District.

3. The Thasildhar
Avadi, Thiruvallur District.

4. The Village Administrative Officer
Pothur, Thiruvallur District.

+1cc to Mr.B.Ajay Kumaran, Advocate SR.No. 28026

+1 cc to Government Pleader Sr.No. 28142

W.P. No. 12766 of 2021

PMK(CO)

B.VC(23.07.2021)