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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
and
THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

W.P.No.20830 of 2021
and
W.M.P.No.22103 of 2021

S.Sathishkumar

...Petitioner

Vs.

1.The District Collector,
Mayiladuthurai District,
Mayiladuthuria.

2.The Executive Officer,
Town Panchayat Office,
Vaitheeswaran Koil,
Mayiladuthuriai District.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus to direct the respondents to conduct appropriate enquiry before initiating any further action pursuant to the notice bearing No.Na.Ka.No.236/2021/a1 dated 06.09.2021 issued by the second respondent.

For petitioner : Mr.K.J.Saravanan

For respondents : Mrs.Akila Rajendran
Govt. Counsel (for R1)
Mr.C.Harsha Raj
Standing Counsel (for R2)

ORDER

(The Order of the Court was made by K.KALYANASUNDARAM, J)



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Mrs.Akila Rajendran, learned Government Counsel takes notice for the first respondents and Mr.C.Harsha Raj, learned Standing Counsel takes notice for the second respondent. By consent, this writ petition is taken up for final disposal.

2.The prayer sought for in this writ petition is to direct the respondents to conduct appropriate enquiry before initiating any further action pursuant to the notice bearing No.Na.Ka.No.236/2021/a1 dated 06.09.2021 issued by the second respondent.

3.The petitioner would claim that he is the owner of the property bearing Door No.14/9, Vandikara Street, Vaitheeswaran Koil, Nagapattinam, by virtue of a registered settlement deed No.3230 of 2012 dated 08.10.2012 and he is residing therein with his family. It is also stated that he was issued with patta No.33 and he has constructed a house by obtaining planning permission in the year 2014. He was also provided with electricity service connection and he has been paying property tax to the local body.

4.The learned counsel for the petitioner Mr.K.J.Saravanan would urge that the second respondent has issued a notice dated 06.09.2021 directing the petitioner to vacate the place within a period of fifteen days in pursuance of the order passed in W.P.No.14236 of 2021. It is the submission of the learned counsel for the petitioner that even in the order, the Division Bench of this Court directed the second respondent to take action after providing a reasonable opportunity of hearing to all parties, but the second respondent without giving any opportunity and without conducting any enquiry, passed the impugned order. Hence, the petitioner seeks a direction to the respondents to conduct an enquiry before implementing the order.

5.The learned Standing Counsel appearing for the second respondent would state that the petitioner has encroached the Elephant Tank, hence, this action has been taken in accordance with the order passed in W.P.No.14236 of 2021 and there is no illegality or irregularity in the order passed by the second respondent.

6.Heard the learned counsel appearing on either side and



perused the materials available on record.

7.In the matter on hand, it is an admitted fact that in W.P.No.14236 of 2021, the Hon'ble First Bench, while dealing with the Public Interested Litigation, directed the second respondent to consider the representation of the petitioner in that case within a period of eight weeks, after providing reasonable opportunity of hearing to all parties affected thereby including the petitioner and the alleged encroachers. Indisputably, without conducting any enquiry, the notice dated 06.09.2021 was issued directing the petitioner to remove the encroachment.

8.In the light of the above undisputed facts, this Court is of the considered opinion that the notice dated 06.09.2021 can be treated as show-cause notice and an opportunity can be given to the petitioner to submit his reply to the second respondent and after providing ample opportunity to the petitioner, the second respondent shall be directed to pass orders.

9.In such view of the matter, we direct the petitioner to submit a reply to the notice of the second respondent dated 06.09.2021 within a period of two weeks by enclosing a copy of this order. On receipt of such reply, the second respondent shall conduct an enquiry before taking any further action.

10.With the above direction, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

skn

To

1.The District Collector,
Mayiladuthurai District,
Mayiladuthurai.



2.The Executive Officer,
Town Panchayat Office,
Vaitheeswaran Koil,
Mayiladuthurial District.

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+1cc to M/s.K.J.Saravanan, Advocate, S.R.No.50366

+1cc to the Government Pleader, S.R.No.51258

W.P.No.20830 of 2021

and

W.M.P.No.22103 of 2021

RSV(C0)

SB(27/10/2021)