

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.02.2021

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P. No.21019 of 2017

and

W.M.P. No.21914 of 2017

Haroon Al Rasheed,
S/o.Abdul Rasheed

... Petitioner

-vs-

1. The Commissioner,
Pondicherry Municipality,
Puducherry.

2. The Revenue Officer-I,
Puducherry Municipality,
Puducherry.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, forbearing the respondents from in any manner evicting the petitioner or interfering with the peaceful possession and enjoyment of the property situated in Ward H Block, No.1, Town Survey No.11, Old R.S.No.1/10, corresponding to cadastre No.1649 8/24 included in Patta No.2286 in No.37, Pudupalayam Revenue Village in Mudaliarpur Commune, falling within the Puducherry Municipality totally to an extent of 1615 sq.ft., pursuant to the notice dated 24.03.2009, without complying with the mandatory provisions contained under Sections 415(2) and 416 of Pondicherry Municipalities Act, 1973.

For Petitioner : Mr.P.Raja

For Respondents : Mr.J.Kumaran

Additional Government Pleader

सत्यमेव जयते
ORDER

Heard the learned counsel for the petitioner and the respondents.

2. The petitioner had earlier filed writ petition in W.P.No.1346 2009 by order dated 10.02.2009. The writ petition came to be disposed with the following direction:

"This writ petition is filed challenging the notice dated 24.12.2008 issued under Section 416(1) of the Pondicherry Municipalities Act, 1973, by which the petitioner is directed to vacate the premises.

2. According to the learned counsel for the petitioner, the notice has been issued in the name of a dead person, viz., Lamarque Robert, S/o. Joseph Lamarque, but, the actual owner is the petitioner.

3. Since the impugned notice has been issued to the petitioner who is actually in occupation of the building, the impugned notice is set aside and the matter is remitted back to the first respondent so far as to pass an order in accordance with law and also by following the procedure contemplated under the Pondicherry Municipalities Act, 1973."

3. However, the said order was passed and impugned Show Cause Notice has been issued on 24.03.2009, the petitioner claims that the petitioner had replied to the said Show Cause Notice.

4. However, without hearing the petitioner, the respondents have come to a mark the property and have orally threatened the petitioner to vacate their alleged encroachment of the property by the petitioner. A copy of the reply have not kept along with the writ petition in the typed set of papers. Be that as it may, I am of the view that the writ petition can be disposed by directing the petitioner to pursue with the aforesaid show cause proceeding before the respondents by filing a suitable reply within one month from the date of receipt of a copy of this order.

5. On such reply being filed within such time, the respondents shall pass appropriate orders in accordance with law within a period of 3 months from the date of receipt of a copy of this order.

6. The petitioner is therefore directed to co-operate with the respondents. In case no reply is received from the petitioner within one month from the date of receipt of this order, the respondents are at liberty to proceed against the petitioner in accordance with law.

7. This Writ Petition stands disposed of. No costs. Consequently, connected writ miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS.VI)

/True Copy/

Sub Assistant Registrar

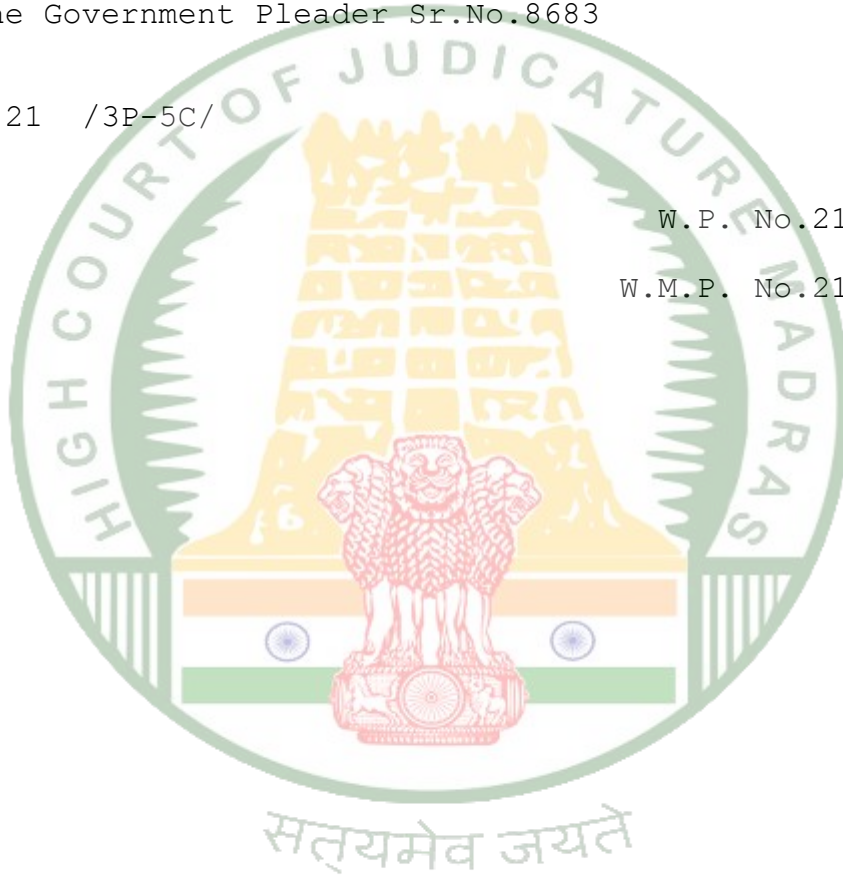
To:

1. The Commissioner,
Pondicherry Municipality,
Puducherry.
2. The Revenue Officer-I,
Puducherry Municipality,
Puducherry.

+1cc to M/s.Elizabeth Ravi, Advocate SR.9042
+1cc to The Government Pleader Sr.No.8683

AKM/15.03.21 /3P-5C/

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