



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.12.2021

CORAM

THE HONOURABLE MR.JUSTICE R. MAHADEVAN
AND
THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

Writ Petition No. 27478 of 2021
and
W.M.P. No.28999 of 2021

R. Mahalingam

..Petitioner

Versus

1. The District Collector
Coimbatore
2. The Tahsildar
Pollachi Taluk
Coimbatore
3. The Revenue Inspector
PollachiTaluk (North)
Pollachi
4. The President
AachipattiPanchayat
PollachiTaluk
Coimbatore

..Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the eviction notice dated 15.12.2021 issued by the third respondent u/Sec.6 of the Tamil Nadu Land Encroachment Act, 1905 to evict the temple premises within 2 days as illegal and contrary to the order passed by this Hon'ble Court in W.P. No.23282 of 2021 dated 28.10.2021 and consequently direct the respondents herein to conduct a proper enquiry as directed by this Hon'ble Court in its order dated 28.10.2021 in W.P. No. 23282 of 2021.



For Petitioner : Mr.V.Anandhamurthy

For Respondents : Mr. V.P.R. Elamparithi
Additional Government Pleader for RR1 to 3

Mr.S.Rajesh
Additional Government Pleader for R4

WEB COPY

ORDER

(Order of the Court was made by R. MAHADEVAN, J.)

The petitioner has filed this writ petition to issue a writ of certiorarified mandamus to call for the records pertaining to the eviction notice dated 15.12.2021 issued by the third respondent under section 6 of the Tamil Nadu Land Encroachment Act, 1905, and consequently direct the respondents to conduct a proper enquiry as directed by this Court in the order dated 28.10.2021 passed in W.P. No. 23282 of 2021.

2.It is the case of the petitioner that in the writ petition viz., WP.No.23282 of 2021 filed by one N.Prakash, this Court passed an order dated 28.10.2021 directing the Tahsildar, Pollachi, the second respondent herein to ascertain whether there is any encroachment in the public park at the land in Survey Nos.108/1, 111/B1A, 111/B2A and 112/B2B in A.Sangampalayam Village, Aachipatti Panchayat of Pollachi Taluk, Coimbatore District, by conducting appropriate enquiry and to take expeditious steps to remove the encroachment. Pursuant to the said order of this court, the second respondent issued notice dated 23.11.2021 to the petitioner calling upon him to appear for enquiry with supporting documents at 4.00pm on 26.11.2021. Accordingly, the petitioner appeared for enquiry on 26.11.2021, but he was not permitted to submit any document. According to the petitioner, the plot in dispute in WP.No.23282 of 2021 at Balaji Nagar, V.K.S.Lay out, has been used as park and public library and that, Public Distribution Centre was constructed and put in use; and on the southern west corner of the said plot, an idol of Vinayagar deity was erected with a fond hope to prohibit the resident of V.K.S layout from dumping garbage in the said reserved site and turning it into a dumping yard. Thus, the said small open space temple of 4x4 sq.ft. does not in any way cause hindrance for the said plot to be used for public purpose. Whereas the fourth respondent has conveniently constructed the public library and public distribution centre in the park site and the said encroachment was never disclosed by the respondents 2 and 3. While so, the third respondent has issued notice under section 7 of the Tamil Nadu Land Encroachment Act, 1905. Immediately, the petitioner made a representation dated 13.12.2021 to the respondents 1 to 3 requesting to provide an opportunity to prove his case by



submitting the available documents. Instead of conducting proper enquiry as directed by this court in WP.No.23282 of 2021, the respondents have issued the eviction notice dated 15.12.2021 to evict the premises within 2 days. Aggrieved against the same, the petitioner is before this court with the present writ petition, for the aforesaid relief.

3. The learned counsel for the petitioner during the course of argument, restricted the relief sought in this writ petition and submitted that it would suffice, if a direction is issued to the second respondent to conduct a proper enquiry, after providing due opportunity to the petitioner to submit the relevant documents, and thereafter, pass appropriate orders, in compliance with the order of this court dated 28.10.2021 in WP.No.23282 of 2021.

4. Heard the learned Additional Government Pleader taking notice for the respondents 1 to 3, who agreed upon the submissions made by the learned counsel for the petitioner.

5. Considering the main grievance of the petitioner that he was not afforded opportunity to furnish the required documents to substantiate his stand, and also taking note of the submissions made by the learned counsel on either side, this court permits the petitioner to submit the supporting documents within a period of one week from the date of receipt of a copy of this order. On such submission, the second respondent viz., Tahsildar, Pollachi to consider the same and pass appropriate orders, as directed by this court in the order dated 28.10.2021 passed in WP.No.23282 of 2021, without causing further delay.

6. Accordingly, this writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

dhk/rsh

To

1. The District Collector
Coimbatore



2. The Tahsildar, Pollachi Taluk
Coimbatore

3. The Revenue Inspector
Pollachi Taluk (North), Pollachi

4. The President
Aachipatti Panchayat
Pollachi Taluk
Coimbatore

+1cc to M/s.V.Anandhamurthy, Advocate, S.R.No.6850

WP No. 27478 of 2021

(CO)
RGA (24/01/2022)