



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.06.2021

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.P.[MD]Nos.11323 & 11324 of 2012

and

M.P.[MD]Nos.1 & 1 of 2012

S.D.R.Vijayaseelan

... Petitioner in both Writ Petitions

Vs.

The Commissioner,
Thoothukudi Corporation,
Thoothukudi.

... Respondent in both Writ Petitions

COMMON PRAYER: Writ Petitions filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records relating to the impugned order passed by the respondent in his proceedings Na.Ka.No.9929/11/F1 dated 13.08.2012 and quash the same.

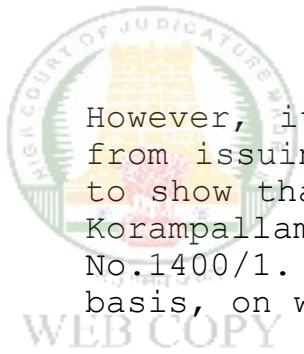
For Petitioner : Mr.N.Anandakumar
(in both Writ Petitions)
For Respondent : Mr.S.Saji Bino
(in both Writ Petitions)

C O M M O N O R D E R

[Order of the Court was made by **T.S.SIVAGNANAM, J.**]

These Writ Petitions have been filed challenging the notice issued in the year 2012, directing the petitioner to vacate the premises within 15 days from the date of receipt of the notice, alleging that the petitioner has constructed a building in a land belonging to Thoothukudi Municipal Corporation.

2. The petitioner has questioned the impugned proceedings on several grounds. Firstly, relying upon a Judgment of the Civil Court, which according to the petitioner has attained finality up to this Court in Second Appeal. Secondly, the Corporation has no jurisdiction to issue notice. This Court has admitted the Writ Petitions and on 02.01.2013, an order of Stay has been granted. The order of Stay is in force till date. No counter affidavit has been filed by the respondents. At this distant point of time, it will be inequitable to upset the present status quo. That apart, we are satisfied that the impugned notice is in violation of principles of natural justice, since no Show Cause Notice has been given to the petitioner. These are all sufficient to quash the impugned notice.



However, it will not preclude the respondent Municipal Corporation from issuing notices, if need subsists, and if there are materials to show that the petitioner is an encroacher in an area situated in Korampallam Kall, Palayamkottai Road, Survey Ward-2, Town Survey No.1400/1. The Show Cause Notice should clearly disclose, as to the basis, on which the respondent Corporation proposes to take action.

3. With the above observations, these Writ Petitions stand disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (T&P)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

kmm

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

The Commissioner,
Thoothukudi Corporation,
Thoothukudi.

W.P.[MD]Nos.11323 & 11324 of 2012
30.06.2021

LS (CO)

LR (22.07.2021) 2P 2C