



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **01.02.2021**

CORAM:

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

AND

THE HONOURABLE MRS. JUSTICE S.ANANTHI

W.P. (MD)No.1412 of 2021

and W.M.P(MD) No.1209 of 2021

(Through Video Conferencing)

P.Kannan

: Petitioner

Vs.

1.The District Collector

Madurai District

Madurai - 625 020.

2.The District Revenue Officer,

Madurai District,

Madurai - 625 020.

3.The Revenue Divisional Officer,

Melur - Division,

Near TVS Rubber Factory

Narasingampatti

Madurai District.

4.The Tahsildar,

Madurai East Taluk

Y.Narasingam

Madurai District.

5.The Revenue Inspector,

Sakkimangalam Village (Ulvattam)

Madurai East Taluk

Madurai - 625 020.

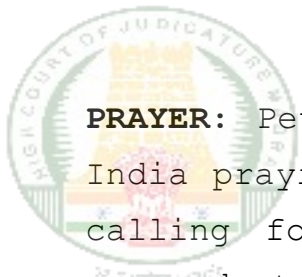
6.The Village Administrative officer,

Vandiyur I Bit Village,

Bharathipuram Karuppayurani

Madurai - 625 020.

: Respondents



PRAYER: Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the records and proceedings on the file of the 5th respondent herein and to quash the impugned order dated 28.12.2020.

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For Petitioner : Mr.K.Suresh
For Respondents : Ms.J.Padmavathi Devi
Special Government Pleader

ORDER

(Order of the Court was made by M.M.SUNDRESH, J.)

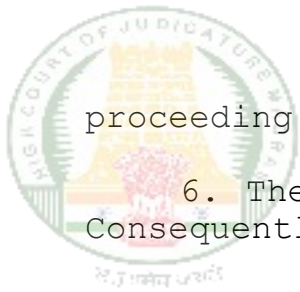
The petitioner has come forward to challenge the show cause notice issued by the respondent No.5 on the premise that there is a civil suit pending at his instance in O.S.No.57/2020 and this Court in W.P.(MD) No.6452/2016 dated 15.10.2020 directed the parties to resolve their dispute in the said proceedings.

2. The learned counsel for the petitioner submitted that in view of the above, the impugned notice cannot be sustained.

3. The learned Special Government Pleader submitted that the order of the learned single Judge and pendency of the the civil suit will not a bar to the respondent No.5 to proceed in accordance with law. There is already an order passed by the District Collector changing the classification of the land in favour of the Mines and Minerals Department for the purpose of putting up construction.

4.We do not find any merit in this writ petition. The order of the learned Judge, in fact, declines the relief sought for by the petitioner. It is the petitioner, who approached this Court and having filed a suit, he has to approach the civil Court, as directed therein. Thus, the said order does not prohibit or restrict the statutory duty imposed on the respondents to proceed in accordance with law, which they did.

5.In such view of the matter, we do not find any reason to entertain this writ petition. However, the respondent No.5 has committed an error in issuing the show cause notice under Section 7 of the Land Encroachment Act instead of wrongly invoking Section 5 of the said Act. Section 5 stands on a different footing and the show cause notice for proposed removal is only under Section 7 of the said Act. Therefore, the same being defective, liberty is given to the respondent No.5 to issue fresh notice invoking Section 7 of the Land Encroachment Act, if so advised. We also make it clear that neither the pendency of the suit nor the earlier order passed by this Court would stand in the way of the respondent No.5



proceeding in accordance with law.

6. The writ petition stands disposed of accordingly. No costs. Consequently connected Miscellaneous petition is closed.

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Sd/-

Assistant Registrar (CS III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

RR

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

- 1.The District Collector
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- 2.The District Revenue Officer,
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Madurai - 625 020.
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6.The Village Administrative officer,
Vandiyur I Bit Village,
Bharathipuram Karuppayurani
Madurai - 625 020.

+1 CC to M/s.K.SURESH, Advocate (SR-2709[F] dated 02/02/2021)

+1 CC to M/s.GP (SR-2784[F] dated 02/02/2021)

Order made in
W.P. (MD)No.1412 of 2021
Dated: 01.02.2021

NS (CO)
KK (03.02.2021) 4P 9C