



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.06.2021

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.P.[MD]No.1961 of 2020

and

W.M.P(MD)Nos.1640, 1641 & 4641 of 2020

T.Lakshmanan : Petitioner

Vs.

- 1.The State of Tamil Nadu,
Rep. by its Secretary to Government,
Revenue Department,
Fort St. George,
Chennai.
- 2.The Regional Director of Municipalities,
Palayamkottai,
Tirunelveli - 627 002.
Tirunelveli District.
- 3.The Commissioner,
Sankarankovil Municipality,
Sankarankovil,
Tenkasi District.
- 4.The Assistant Director (Survey)
Tirunelveli.
(incharge of Tenkasi District also)

R4 added vide Court order, dated 25.02.2021.

R4 cause title amended, vide Court order, dated 21.06.2021

: Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned notice, Na.Ka.No.3185/2019/F1, dated 07.01.2020 issued by the 3rd respondent and quash the same as void and unlawful and pass an order directing the 3rd respondent to take recourse to Tamilnadu Public Premises (Eviction of Unauthorized Occupants) Act, 1975 or any other law applicable or otherwise by taking to Civil Courts and not by use of unilateral force.

For Petitioner

: Mr.F.X.Eugene

For Respondents 1, 2 & 4

: Mr.A.K.Manickam,

Standing Counsel for Government



For 3rd Respondent

: Mr.P.Mahendiran,
Standing Counsel

O R D E R

WEB COPY

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

Heard Mr.F.X.Eugene, learned counsel appearing for the petitioner, Mr.A.K.Manickam, learned Standing Counsel for Government appearing for the respondents 1, 2 & 4 and Mr.P.Mahendiran, learned Standing Counsel appearing for the third respondent Municipality.

2.The petitioner has impugned an eviction notice, dated 07.01.2020 stating that the petitioner has encroached into the road margin/Municipal land. This is the second round of litigation. Earlier, when action was initiated against the petitioner, he filed a writ petition in W.P.(MD) No.18534 of 2019, which was disposed of by order, dated 27.08.2019, by directing the petitioner to give explanation to the notice and on receipt of the explanation, the third respondent Municipality herein was directed to pass a speaking order on merits and in accordance with law.

3.According to the petitioner, he has given an explanation and without considering the same, the impugned order came to be passed on 07.01.2020, has filed the present writ petition.

4.On an earlier occasion, the Hon'ble Division Bench issued an interim direction on 25.02.2021, after suo-motu impleading the fourth respondent, for the purpose of conducting a survey.

5.The learned counsel for the third respondent Municipality submitted that there is no post of Assistant Director of Survey in Tenkasi District, inspite of the District having been bifurcated and the Assistant Director of Survey, Tirunelveli, is in-charge. If there is no post of Assistant Director of Survey, Tenkasi, nothing prevented the Commissioner of Municipality to forward the said request to the Assistant Director of Survey, Tirunelveli District. Because, the Court was not informed that such post has not been created, inspite of the Revenue District, Tenkasi District, having been formed. However, in order to avoid any technical objection, we suo-motu, amend the cause title by amending the fourth respondent as Assistant Director of Survey, (in-charge of Tenkasi District also) Tirunelveli.

6.The learned counsel for the third respondent Municipality submitted that the petitioner is a very influential person and the Municipality has been taking earnest steps to reclaim the encroached Municipal lands, but, by filing writ petitions, the eviction process is being delayed.



7. We do not wish to go into such a controversy. At this juncture, more particularly, in the light of the interim direction issued on 25.02.2021, which is a comprehensive direction and can be made as a final order in the writ petition as well.

8. In the light of the above, we direct the fourth respondent, namely, Assistant Director of Survey, Tirunelveli, who is also in-charge of Tenkasi District, to immediately arrange a survey team consisting of experts, who shall be provided with latest survey equipments and such survey team shall be constituted within a period of one week from today and they shall go over to the place in question and conduct inspection and since such direction is issued in the petitioner's writ petition, no separate notice is required to be issued to the writ petitioner and the survey shall be conducted on 02.07.2021 and it goes without saying that the survey should be done for the entire street and if there is any encroachment, action should be initiated. So far as the petitioner is concerned, the petitioner shall remain personally present at the time of survey and on survey, if it is found that there is an encroachment, immediately the encroached portion shall be demolished. However, if there is no encroachment found, then the impugned notice shall be withdrawn.

9. Since we have directed to survey of the entire area to be done, there may be a likelihood of law and order problem. Therefore, we direct the Superintendent of Police, Tenkasi District, to provide adequate police assistance to the Commissioner of Sankarankovil Municipality, on a written request made by the Commissioner. Till then, the status quo, which is prevailing as on today insofar as the petitioner's construction shall be maintained.

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

Sd/-

Assistant Registrar (AD-I)

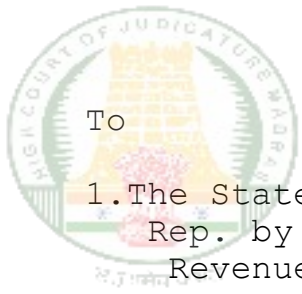
// True Copy //

/ /2021

Sub Assistant Registrar (CS)

RM

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 State of Tamil Nadu,
Rep. by its Secretary to Government,
Revenue Department,
Fort St. George,
Chennai.

2.The Regional Director of Municipalities,
Palayamkottai,
Tirunelveli - 627 002.
Tirunelveli District.

3.The Commissioner,
Sankarankovil Municipality,
Sankarankovil,
Tenkasi District.

4.The Assistant Director (Survey)
Tirunelveli.
(incharge of Tenkasi District also)

5.The Superintendent of Police, Tenkasi District,

+1 CC to M/s.F.X.EUGENE, Advocate (SR-19804[F] dated 22/06/2021)

+1 CC to M/s.SPL GP (SR-20036[F] dated 23/06/2021)

W.P.[MD]No.1961 of 2020
21.06.2021

KB(25.06.2021) 4P 8C