



WEB COPY

W.P.[MD]No.8280 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.04.2021

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.P.[MD]No.8280 of 2021

and

W.M.P.[MD]Nos.6264 and 6265 of 2021

Malaiappan Nadar

... Petitioner

Vs.

1.The District Collector,
Thoothukudi District,
Thoothukudi.

2.The Tahsildar,
Sathankulam Taluk,
Thoothukudi District.

3.The Block Development Officer,
Alwarthirunagari Panchayat Union,
Alwarthirunagari,
Sathankulam Taluk,
Thoothukudi District.

4.The President,
Karunkadal Panchayat,
Karunkadal, Sathankulam Taluk,
Thoothukudi District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order made by the fourth respondent dated 21.12.2020 directing the petitioner to remove the encroachment and quash the same as illegal and consequently directing the respondents 1 to 4 to conduct proper survey of petitioners property admeasuring 6.42 cents with two houses and compound wall in Natham Survey Number 898/2 (Old Survey Number 796) at Pirandar Kulam, Karunkadal Village, Sathankulam Taluk, Thoothukudi District before initiating any proceedings under the Land Encroachment Act.

For Petitioner	: Mr.S.R.Anbarasu
For Respondents	: Mr.N.Shanmuga Selvam
	Additional Government Pleader



O R D E R

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

With the consent on either side, the Writ Petition itself is taken up for final disposal.

2.Heard Mr.S.R.Anbarasu, learned Counsel appearing for the petitioner and Mr.N.Shanmuga Selvam, learned Additional Government Pleader appearing for respondents.

3.This writ petition has been filed challenging the notice issued by the fourth respondent dated 21.12.2020, directing the petitioner to vacate the premises where he is residing and where he has put up construction, within 15 days from the date of receipt of the notice.

4.The impugned proceedings is not a notice in the strict sense but it is an eviction order. The petitioner has filed a suit in O.S.No.11 of 2021, on the file of the District Munsif Court, Sathankulam and an interim injunction has been granted in I.A.No.12 of 2021. The fourth respondent is the sole defendant in the suit. In the meantime, the impugned proceedings have been given effect to. Though it is dated much earlier to the suit, the petitioner's right will be affected in the pending suit and the defence raised by the fourth respondent will also be affected. Therefore, the impugned eviction notice should not be given effect to till appropriate orders are passed in the suit either in the main suit or in the Interlocutory Application.

5.In the result, the Writ Petition stands disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CSI)

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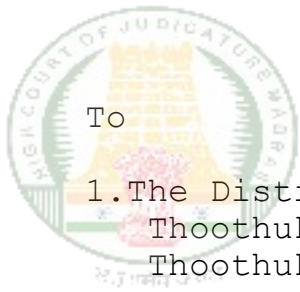
/ /2021

Sub Assistant Registrar(CS)

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.

MR

<https://hcservices.ecourts.gov.in/hcservices/>



To

- 1.The District Collector,
Thoothukudi District,
Thoothukudi.
- 2.The Tahsildar,
Sathankulam Taluk,
Thoothukudi District.
- 3.The Block Development Officer,
Alwarthirunagari Panchayat Union,
Alwarthirunagari,
Sathankulam Taluk,
Thoothukudi District.
- 4.The President,
Karunkadal Panchayat,
Karunkadal, Sathankulam Taluk,
Thoothukudi District.

ORDER MADE IN
W.P. [MD]No.8280 of 2021

22.04.2021

GS (9.06.2021) 3P 5C