



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

and

THE HONOURABLE MR.JUSTICE M.DURAI SWAMY

W.P. (MD)No.13745 of 2021

and

W.M.P. (MD)No.10680 of 2021

V.Subbiah

... Petitioner

Vs.

1.The District Collector,
Thenkasi Collectorate Building,
Thenkasi.

2.The Tahsildar,
Thiruvenkadam Tahsildar office,
Thiruvenkadam Taluk,
Thenkasi District.

3.The Special Tahsildar,
Adhi Diravidar Welfare Scheme,
Sankarankovil,
Thenkasi District.

4.The Block Development Officer,
Kuruvikulam Block Development Office,
Thiruvenkadam Taluk,
Thenkasi District.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari to call for the records in connection with the impugned notice of the proceedings in No. 96/2013/2021, dated 22.07.2021, which issued by the fourth respondent and consequently quash the same.

For Petitioner : Mr.B.Sukumar

For Respondents : Mr.B.Saravanan
Government Advocate
for R.1 to R.3

: Mr.P.Thilakkumar
Standing Counsel for the Government
for R.4



ORDER

(Order of the Court was made by **N.KIRUBAKARAN, J.**)

The petitioner has filed this writ petition, challenging the order dated 22.07.2021 passed by the fourth respondent, by which the fourth respondent directed the petitioner to remove the alleged encroachment made in Survey No.436/3B24 of Vellakulam Village, Thiruvankadam Taluk, Thenkasi District, pursuant to the direction given by this Court in W.P.(MD)No.10542 of 2021, filed by one Thangavel.

2. Mr.B.Sukumar, learned Counsel for the petitioner would contend that the petitioner was not served with any show cause notice, before passing the impugned order.

3. Mr.P.Thilakkumar, learned Standing Counsel for the Government, who takes notice for the fourth respondent, would submit that pursuant to the orders passed by this Court in W.P.(MD)No.10542 of 2021 only, a survey was conducted in the property and it is found that the petitioner encroached upon the property to an extent of 30sqft and therefore, the impugned order has been passed.

4. Admittedly, the petitioner has not been served with notice in the writ petition in W.P.(MD)No.10542 of 2021. When such is the position, the respondents should have been careful enough to issue notice to the petitioner and survey the property and thereafter, should have proceeded against the petitioner. Since the petitioner has not been given notice, while surveying the property and no show cause notice has been issued to the petitioner before the issuance of the impugned order, this Court directs the petitioner to treat this impugned order dated 22.07.2021 issued by the fourth respondent as show cause notice and issue reply within a period of two weeks from the date of receipt of a copy of this order. On receipt of such reply from the petitioner, the fourth respondent is directed to hear the petitioner and pass a reasoned order, within a period of six weeks thereafter. Till the order is passed by the fourth respondent after hearing the petitioner, the petitioner's possession shall not be disturbed.

5. With the above observations, the Writ Petition is disposed of. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

SSL

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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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Thenkasi.

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Thiruvenkadam Taluk,
Thenkasi District.

+1 CC to M/s.GP (SR-25881[F] dated 11/08/2021)

+1 CC to M/s.B.SUKUMAR, Advocate (SR-25924[F] dated 11/08/2021)

W.P. (MD) No.13745 of 2021
10.08.2021

RK (17.08.2021) 3P 7C