



WEB COPY

W.P(MD)No.14585 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAI SWAMY

AND

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

W.P (MD)No.14585 of 2021

and

W.M.P (MD)Nos.11516 & 11517 of 2021

Muthaiah

... Petitioner

Vs.

1.The Commissioner,
Madurai Corporation,
Madurai - 625 002.

2.The Assistant Commissioner,
Madurai Zone - 4,
Madurai Corporation,
Opposite to Madurai Railway Junction,
Madurai - 625 001.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records pertaining to the order passed by the second respondent vide proceedings in Ma4A6/004075/2020 dated 04.08.2021 and quash the same.

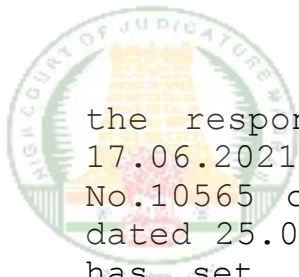
For Petitioner : Mr.R.Karunanidhi
For Respondents : Mr.R.Murali

ORDER

(Order of the Court was made by **M.DURAI SWAMY, J.**)

The petitioner has filed the above Writ Petition to issue a Writ of Certiorari, to call for the records pertaining to the order passed by the second respondent dated 04.08.2021 and to quash the same.

2.It is the case of the petitioner that he is in possession of the property for a long number of years and therefore, the order passed by the Madurai Corporation has to be set aside. On an earlier occasion, the second respondent issued an order dated 17.06.2021 for evicting the petitioner from the land belonging to



the respondents Corporation. Challenging the said notice dated 17.06.2021, the petitioner filed a Writ Petition in W.P(MD) No.10565 of 2021 and the Division Bench of this Court by order dated 25.06.2021 recording the fair stand taken by the Corporation has set aside the notice dated 17.06.2021 and directed the respondents to consider the matter afresh in the light of the documents and papers submitted by the petitioner. Further, the respondents were directed to pass a detailed order within a period of six weeks after affording the petitioner a reasonable opportunity of hearing. Further, the Division Bench made it clear that in the event of the Corporation finding that the petitioner had encroached on the Corporation or revenue land, immediate appropriate measures should be taken to remove the encroachment in accordance with law. After the dismissal of the Writ Petition, the second respondent passed an order dated 04.08.2021 calling upon the petitioner to vacate and hand over the possession of the land belonging to the Corporation.

3.On a perusal of the order dated 04.08.2021, it could be seen that the petitioner was called for enquiry on 22.07.2021 and he also appeared before the second respondent and submitted the documents before him. Further, the second respondent observed that the documents produced by the petitioner do not establish that he is having any right over the property in dispute. Further the second respondent has stated that the petitioner has not produced any patta to support his case. The observation of the second respondent was that the petitioner has put up construction in a water body, hence, called upon him to vacate and hand over possession within seven days.

4.From the above, it is clear that the respondents Corporation have followed the directions issued by this Court in W.P(MD)No.10565 of 2021. When the petitioner failed to establish his right over the property in dispute, the order passed by the second respondent cannot be said to be erroneous. We do not find any ground to interfere with the order passed by the second respondent. The Writ Petition is devoid of merits and the same is dismissed.

5.The learned counsel appearing for the petitioner submitted that there are other encroachers in the said locality, however, the respondents have not taken any action against them.

6.Mr.R.Murali, learned counsel appearing for the respondents submitted that the respondents would initiate proceedings against all the encroachers and remove the same as expeditiously as possible.

7.The submission made by the learned counsel appearing for the



respondent is recorded. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (P&A)

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// True Copy //

/ /2021

Sub Assistant Registrar (CS)

ps

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 Commissioner,
Madurai Corporation,
Madurai - 625 002.

2.The Assistant Commissioner,
Madurai Zone - 4,
Madurai Corporation,
Opposite to Madurai Railway Junction,
Madurai - 625 001.

+1 CC to M/s.R.KARUNANIDHI, Advocate (SR-27471[F] dated 26/08/2021)

+1 CC to M/s.R. MURALI, Advocate (SR-27415[F] dated 26/08/2021)

W.P (MD) No.14585 of 2021
25.08.2021

DJ(CO)
SB(02.09.2021) 3P 5C