



WEB COPY

W.P(MD)NO.17751 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAI SWAMY

AND

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

W.P (MD) NO.17751 of 2021

and

W.M.P (MD) Nos.14640 and 14641 of 2021

R.Ganesan

: Petitioner

vs .

1.The District Collector,
Virudhunagar District,
Virudhunagar.

2.The Revenue Divisional Officer,
Sivakasi,
Virudhunagar District.

3.The Tahsildar,
Watrap Taluk,
Watrap, Virudhunagar District.

4.The Executive Officer,
S.Kodikulam Town Panchayat,
Watrap Taluk,
Virudhunagar District.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the entire records, relating to the impugned order, dated 27.08.2021, issued by the fourth respondent and to quash the same and consequently to direct the respondents 1 to 4 that to rectify the mistake made in the classification in respect of the land in Survey No.754/16, situated in S.Kodikulam Village, Watrap Taluk, Virudhunagar District and further to direct the respondents not to disturb the petitioner's peaceful possession and enjoyment over his house property, situated in Survey Nos.754/14 & 754/16 in S.Kodikulam Village, except due process of law.

For Petitioner : Mr.M.S.Jeyakarthik
For Respondents : Mr.B.Saravanan
Government Advocate



O R D E R

[Order of the Court was made by **M.DURAISWAMY., J.**]

The petitioner has filed the above petition to issue Writ of Certiorarified Mandamus, to call for the records relating to the impugned order, dated 27.08.2021, issued by the fourth respondent, the Executive Officer, S.Kodikulam Town Panchayat, Watrap Taluk, Virudhunagar District and to quash the same and consequently to direct the respondents 1 to 4 to rectify the mistake made in the classification in respect of the land in Survey No.754/16, situated in S.Kodikulam village, Watrap Taluk, Virudhunagar District and further, to direct the respondents not to disturb the petitioner's peaceful possession and enjoyment over his house property situated in Survey Nos.754/14 and 754/16, except under due process of law.

2.The impugned notice, dated 27.08.2021, has been issued under Section 6 of the Tamil Nadu Land Encroachment Act 1905, by the fourth respondent, the Executive Officer, S.Kodikulam Town Panchayat. The authority to issue notice under Section 6 of the Act is the Tahsildar, Watrap Taluk, who is the third respondent in the Writ Petition.

3.learned Counsel appearing for the petitioner submitted that the fourth respondent has no jurisdiction to issue the impugned notice under Section 6 of the Act.

4.Mr.B.Saravanan, learned Government Advocate appearing for the respondents also fairly submitted that it is only the third respondent, the Tahsildar, Watrap Taluk is the appropriate authority to issue the notice under Section 6 of the Act.

5.Since, the impugned notice has been issued by the fourth respondent, who has no jurisdiction to issue the notice, the impugned notice, dated 27.08.2021, is liable to be set aside and accordingly, the same is side aside. We give liberty to the third respondent, the Tahsildar, Watrap Taluk, Watrap, Virudhunagar District to take appropriate steps to remove the alleged encroachment made by the petitioner following the provisions of Tamil Nadu Encroachment Act, 1905.

6.With these observations, the Writ Petition stands allowed. No costs. Consequently, the connected Miscellaneous Petitions are also closed.

Sd/-

Assistant Registrar (A.D I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



vsn/lr

W.P(MD)NO.17751 of 2021

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,
Virudhunagar District,
Virudhunagar.
- 2.The Revenue Divisional Officer,
Sivakasi,
Virudhunagar District.
- 3.The Tahsildar,
Watrap Taluk,
Watrap, Virudhunagar District.
- 4.The Executive Officer,
S.Kodikulam Town Panchayat,
Watrap Taluk,
Virudhunagar District.

+1 CC to M/s.M.S.JEYAKARTHIK, Advocate (SR-30832[F] dated 01/10/2021)

+1 CC to M/s.SPL.GP (SR-30882[F] dated 01/10/2021)

ORDER MADE IN
W.P (MD) NO.17751 of 2021
and
W.M.P (MD) Nos.14640 and
14641 of 2021
30.09.2021

NSN (CO) /RS (07.10.2021) 3P 7C