



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.01.2021

CORAM:

THE HONOURABLE MR.JUSTICE **M.M.SUNDRESH**
AND
THE HONOURABLE MRS.JUSTICE **S.ANANTHI**

W.P. (MD)No.19993 of 2020
and
W.M.P. (MD)No.16657 of 2020

Prithiviraj : Petitioner

Vs.

The Commissioner,
Thirumangalam Municipality,
Thirumangalam, Madurai District. : Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorarified Mandamus calling for records pertaining to the impugned order of the respondent in proceedings in Na.Ka.No.1670/2019/F1, dated 07.12.2020 and quash the same as illegal and consequently, forbearing the respondent from evicting the petitioner from his peaceful possession and enjoyment of the property in Door No.70/1 in S.F.No.136/2 of Sengulam Village, Thirumangalam Taluk, Madurai District, without following due process of law.

For Petitioner : Mr.T.Vadivelan

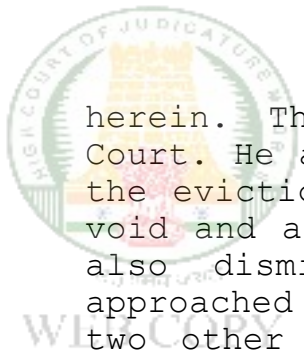
For Respondent : Mr.A.Kannan

ORDER

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

The petitioner herein has come forward to challenge the impugned notice of the respondent dated 07.12.2020, by which, the petitioner was asked to remove the encroached portion, failing which, it was informed that consequential action would follow. The aforesaid order was passed after affording opportunity to the petitioner and considering the materials available. A factual finding has been given with respect to the nature of the property and the failure of the petitioner to produce anything in support of his title.

2. The petitioner earlier filed a suit for declaration and permanent injunction in O.S.No.513 of 2008 against the respondent



herein. The suit was dismissed by the competent jurisdictional Court. He also filed another suit in O.S.No.190 of 2016 challenging the eviction notice dated 18.08.2016 and to declare it as null and void and a consequential prayer for injunction. Even this suit was also dismissed. Not satisfied with the same, the petitioner approached this Court and filed W.P.(MD)No.58 of 2020. There were two other earlier writ petitions also pertaining to the subject matter. In pursuant to the directions of this Court in the aforesaid writ petitions, the impugned order has been passed on 07.12.2020, by way of a speaking order, after affording opportunity to the petitioner. This order is once again sought to be challenged before us.

3. The learned Counsel for the petitioner submitted that the land in question is a Natham land and the respondent does not have jurisdiction. Suffice it is to state that the challenge to the impugned notice itself is an abuse of process of law. The respondent has not invoked the Tamil Nadu Land Encroachment Act. Therefore, the question of jurisdiction does not hold much water. Secondly, the Civil Courts have rendered factual findings as against the petitioner. It is not a Grama Natham land, as claimed by the petitioner. It is very late for the petitioner to make such contention and that too, at this point of time, especially after the filing of suits and earlier writ petitions. The encroachment is on the road. The entire area has been fully developed, coming within the purview of the Municipality. Therefore, it is impossible to hold that the land in question could have been a Grama Natham.

4. The petitioner, in one way or the other, wants to cling on to the encroached portion by using the judicial process to his advantage. He has dragged on the eviction proceedings for more than a decade, as on now. Looking from any perspective, we do not find any reason to entertain this writ petition and therefore, this writ petition stands dismissed. However, considering the plea made by the learned Counsel for the petitioner, time is given till 31.05.2021 for the petitioner to remove the encroached portion and hand over the vacant place to the respondent. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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To

The Commissioner,
Thirumangalam Municipality,
Thirumangalam, Madurai District.

+1 CC to M/s.A.KANNAN, Advocate (SR-173[F] dated 06/01/2021)

W.P. (MD) No.19993 of 2020

05.01.2021

SS (CO)

NR (19/01/2020) 3P : 3C