



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.11.2021

CORAM:

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

AND

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P(MD)No.20727 of 2021

and W.M.P. (MD) Nos.17337 and 17338 of 2021

Mohamed Thoubika

... Petitioner

Vs.

1.The District Collector,
O/o.The District Collector,
Tirunelveli - 627 001.

2.The Commissioner of Corporation,
O/o. The Commissioner Corporation,
Tirunelveli.

3.The Assistant Commissioner of Corporation,
Melapalayam Ward Office,
Tirunelveli.

4.The Tahsildar,
Palayamkottai Taluk Office,
Palayamkottai,
Tirunelveli - 627 002.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned notice issued under Section 7 of Madras III Act, 1905, dated 31.10.2021 passed by the Respondent No.4 and quash the same as illegal, consequently directing the Respondent Nos.2 & 3 to grant building approval after collecting necessary fee from the petitioner.

For Petitioner : Mr.S.M.A.Jinnah

For Respondent Nos.1 : Mr.P.Thilakkumar
and 4 Government Pleader

For Respondent Nos.2 : Mr.S.P.Maharajan
and 3 Standing Counsel



O R D E R

(Order of the Court was made by PUSHPA SATHYANARAYANA, J.)

The Writ Petition has been filed by the petitioner for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned notice issued under Section 7 of Madras III Act, 1905, dated 31.10.2021, passed by the Respondent No.4 and quash the same as illegal, and consequently directing the Respondent Nos.2 & 3 to grant building approval after collecting necessary fee from the petitioner.

2.Mr.P.Thilakkumar, learned Government Pleader, accepts notice on behalf of respondent Nos.1 and 4 and Mr.S.P.Maharajan, learned Standing Counsel, accepts notice on behalf of respondent Nos.2 & 3.

3.By consent, this Writ Petition itself is taken up for final disposal at the time of admission.

4.Challenge is made to the notice issued by the fourth respondent under Section 7 of the Tamil Nadu Land Encroachment Act, 1905, dated 31.10.2021, which calls upon the petitioner to give his objection as to why he should not be evicted from S.No.490/2P, Melapalayam, Palayamkottai Taluk, which is a Government Poramboke land. Time was granted till 15.11.2021. The writ petitioner has also given an objection dated 15.11.2021, stating that she has purchased land in S.No.489/3A, which is renumbered as S.No.6/2A and therefore, the eviction notice is not maintainable.

5.Be that as it may, as the eviction notice issued under Section 7 of the Tamil Nadu Land Encroachment Act, 1905, has been objected to by giving representation by the petitioner and *prima-facie* it appears that eviction notice does not pertain to the property belonging to the petitioner, the fourth respondent is directed to conduct an enquiry by giving an opportunity of personal hearing to the petitioner and take further course of action in accordance with law, if it is an encroachment. Let the enquiry be conducted within a period of four weeks from the date of receipt of a copy of this order.

6.The Writ Petition stands disposed of with the above directions. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS-)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



sj

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,
O/o.The District Collector,
Tirunelveli - 627 001.

2.The Tahsildar,
Palayamkottai Taluk Office,
Palayamkottai,
Tirunelveli - 627 002.

+1 CC to M/s.S.P. MAHARAJAN, Advocate (SR-35131[F] dated 19/11/2021)

+1 CC to M/s.SPL GP (SR-35312[F] dated 22/11/2021)

W.P (MD) No.20727 of 2021
19.11.2021

VR(CO)
TR(06.12.2021) 3P 5C