



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.03.2022

CORAM:

**THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
AND
THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR**

**W.P (MD)No.4244 of 2022
and
W.M.P (MD)No.3626 & 3627 of 2022**

Kalaimani

:Petitioner

.vs.

The Commissioner,
City Municipal Corporation,
Thoothukudi,
Thoothukudi District.

: Respondent

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 records pertaining to the impugned notice issued by the respondent in Na.Ka.No.vg;.1/3185/2021t.k dated 21.01.2022 and quash the same and consequently restraining the respondent from demolishing petitioner's house property situated in Survey No.53/1 at Krishnarajapuram, Thoothukudi.

For Petitioner : Mr.N.Dilipkumar

For Respondent : Mr.Saji Bino
Standing Counsel

O R D E R

**R.SUBRAMANIAN, J
AND
N.SATHISH KUMAR, J**

The petitioner challenges the notice issued by the respondent Municipality under Sections 256, 258, 441, 471 and 472 of the Tuticorin Corporation, in and by which, in the said notice, the Corporation seeks to remove the alleged encroachment made by the petitioner.



2. The petitioner had instituted a civil suit in O.S.No.176 of 2011 against the Corporation seeking declaration of his title and declaration that the earlier notice of eviction issued by the Corporation are invalid. Though the said suit was dismissed, the Civil Court had rendered certain findings regarding the encroachment said to have made by the petitioner on the basis of the Commissioner's report filed in the said suit. It is stated that the appeal against the said suit is pending in A.S.No.11 of 2019 on the file of the Sub-Court, Tuticorin.

3. We find that there is a serious dispute with reference to the extent of encroachment claimed by the Municipality and the extent pointed out by the Civil Court in its judgment in O.S.No.176 of 2011. We are of the considered opinion that the eviction proceedings should be deferred till such civil proceedings reaches the conclusion.

4. In such view of the matter, we direct the Sub-Court, Tuticorin before which A.S.No.11 of 2019 is pending, to dispose of the said appeal within a period of two months from the date of receipt of a copy of this order and direct the Municipal Corporation to defer the proceedings for removal of encroachment till such time the appellate Court decides the appeal.

5. Accordingly, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To
The Commissioner,
City Municipal Corporation,
Thoothukudi, Thoothukudi District.

Copy To
The Sub-Court, Tuticorin.
+1 CC to M/s.S.SAJI BINO, Advocate (SR-12658[F] dated 17/03/2022)

ORDER MADE IN
W.P (MD) No. 4244 of 2022
10.03.2022

sb (CO)
TR(25.03.2022) 2P 4C

<https://hcservices.ecourts.gov.in/hcservices/>