



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.(MD)No.7884 of 2022

and W.M.P.(MD).Nos.5911, 5912 and 5914 of 2022

U.Manimegalai

... Petitioner

Vs.

1.The District Collector,
Sivagangai District, Sivagangai.

2.The Assistant Director of Panchayat (Village),
Sivagangai, Sivagangai District.

3.The Commissioner,
Thiruppathur Panchayat Union,
Thiruppathur, Sivagangai District.

4.The Chairman,
Thiruppathur Panchayat Union,
Thiruppathur, Sivagangai District.

5.AR.Dharmaraj ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned notice issued by the third respondent in Na.Ka.No.A3/1170/15, dated 06.04.2022 and quash the same as illegal and consequently directing the third respondent not to disturb the petitioner's peaceful possession and enjoyment insofar as the subject matter of Shop Nos.5, 6 and 7 situated at Thiruppathur Panchayat Union Shopping Complex, Thiruppathur, Sivagangai District in the name and style of Durga Departmental Store which was leased out to the fifth respondent, as per the proceedings of the third respondent in Na.Ka.No.A3/0740/15, dated 09.04.2015.

For Petitioner

: Mr.S.Sades Kumar

For R-1 & R-2

: Mr.T.Amjad Khan

Government Advocate

For R-3 & R-4

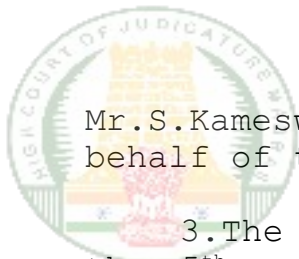
: Mr.S.Kameswaran

Government Advocate

O R D E R

This writ petition has been filed challenging the impugned notice, dated 06.04.2022, issued by the third respondent, calling upon the petitioner to vacate the premises, on the ground that the petitioner is an encroacher.

2.Heard Mr.S.Sades Kumar, learned counsel appearing for the petitioner, Mr.T.Amjad Khan, learned Government Advocate, who accepts notice on behalf of the respondents 1 and 2 and



Mr.S.Kameswaran, learned Government Advocate, who accepts notice on behalf of the respondents 3 and 4.

3.The third respondent has issued allotment orders in favour of the 5th respondent and granted lease to him. Under the impugned notice, the third respondent has informed the petitioner that she is an encroacher and she has to vacate the premises, within a period of one week from the date of receipt of a copy of the impugned notice. However, the same is disputed by the petitioner, who claims that in respect of the allotment orders issued in favour of the 5th respondent, the properties involved therein are partly owned by the petitioner. The petitioner has filed a copy of the tax receipt, dated 19.03.2022, standing in her name to show that she is a part owner of the property. It is also contended by the petitioner that without giving any opportunity of hearing to substantiate her claim that she is not an encroacher, the impugned notice has been issued. The petitioner has challenged the impugned notice on the ground that it is illegal and arbitrary and has been issued without application of mind. It is also contended by the petitioner that the 5th respondent has also not been put on notice about the eviction proceedings initiated by the third respondent.

4.The learned Government Advocate, who has accepted notice on behalf of the third and fourth respondents, on instructions would reiterate the contentions of the respondents 3 and 4 as reflected in the impugned notice and would submit that the petitioner is an encroacher. It is also contended by the learned Government Advocate that the fifth respondent has committed breach of the terms and conditions of the lease by subletting the premises to the petitioner.

5.After giving due consideration to the submissions made by the respective counsels and in view of the fact that the proceedings initiated by the third respondent under the impugned notice is an eviction proceedings, this Court is of the considered view that the petitioner must be granted an opportunity to submit a reply with regard to the contentions of the third respondent and only after consideration of the same, the third respondent can pass final orders evicting the petitioner from the subject shop.

6.Therefore, this Court treats the impugned notice, dated 06.04.2022, issued by the third respondent as a show cause notice issued to the petitioner. The petitioner is directed to send a reply to the impugned notice, dated 06.04.2022, within a period of two weeks from the date of receipt of a copy of this order, along with supporting documents and on receipt of the said reply, within the stipulated time, the third respondent shall pass final orders in the eviction proceedings, within a period of two weeks, thereafter, after affording a fair hearing to the petitioner including granting her the right of personal hearing.



7. With the aforesaid directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (As)

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/ /2022

Sub Assistant Registrar(CS)

TM

To

1. The District Collector,
Sivagangai District, Sivagangai.

2. The Assistant Director of Panchayat (Village),
Sivagangai, Sivagangai District.

+1 CC to M/s.SPL.GP. (SR-21149[F] & SR-21254[F] dated 26/04/2022)

W.P. (MD)No.7884 of 2022

25.04.2022

MGJ(16.05.2022) 3P 4C