



W.P.(MD) No.15908 of 2021

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

AND

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD)No.15908 of 2021

and

W.M.P.(MD)Nos.12825, 12826 & 12828 of 2021

C.K.P.@Muthuvel

... Petitioner

-Vs-

1.The District Collector,
Pudukottai District,
Pudukottai.

2.Block Development Officer,
Pudukottai Taluk,
Pudukottai District.

3.The Revenue Divisional Officer,
Pudukottai.

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4.The Thasildar,
Pudukottai Taluk,
Pudukottai District.

5.S.Subramanian

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the entire records pertaining to the impugned order passed by the 2nd respondent vide Ref.No.Na.Ka.Thi.4/1223/2021, dated 31.08.2021 and quash the same.

For Petitioner : Mr.Niranjana S.Kumar

For R1, R3 & R4 : Mr.K.Balasubramani

Special Government Pleader

For R2 : Mr.P.Thilakkumar,

Government Pleader

For R5 : Mr.K.Balasundaram

ORDER

[Order of the Court was made by D.KRISHNAKUMAR, J.]

The eviction notice dated 31.08.2021 issued by the 2nd respondent, fixing the date to remove the encroachment in the place in question on 02.09.2021, is under challenge in this Writ Petition.

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2. According to the petitioner, he filed a suit in O.S.No.199 of 2015 on the file of the District Munsif Court, Pudukottai, seeking permanent injunction, restraining the respondents 1, 2 and 4 from interfering with the peaceful possession of the petitioner in Survey No.448/1, Perungalur Village, Pudukottai Taluk and District, wherein, the learned District Munsif, Pudukottai, by judgment and decree dated 20.06.2018, passed an *ex-parte* decree in favour of the petitioner. Thereafter, the 5th respondent herein has filed W.P.(MD)No.13729 of 2019, to direct the 4th respondent herein to remove the encroachment in the place in question, wherein this Court, by an order dated 31.03.2021, directed the 2nd respondent to carry out the eviction proceedings against the encroachers by following the procedure in accordance with law. Aggrieved by the same, the petitioner along with one Chinnamani has filed a Review Petition before this Court with the petition for condonation of delay on the ground that the suits filed by the petitioner and the said Chinnamani have not been disclosed by the 5th respondent in the aforesaid Writ Petition. Pending the same, the impugned eviction notice dated 31.08.2021 came to be issued by the 2nd respondent, fixing



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the date for removal of the encroachment. Hence, the petitioner is before this Court with the aforesaid prayer.

3.It is the contention of the petitioner that the impugned eviction notice has been issued without giving any show cause notice to the petitioner, enabling him to make an objection / explanation. Therefore, the same is liable to be quashed on the ground of violation of principles of natural justice.

4.Heard both sides and perused the materials available on record.

5.Considering the fact that the impugned eviction notice has been issued without issuing any show cause notice to the petitioner, we direct that the impugned eviction notice dated 31.08.2021 issued by the 2nd respondent shall be treated as show cause notice.

6.At this juncture, it is reported that the petitioner died. Therefore, the legal heirs of the petitioner are permitted to make an objection / explanation to



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the show cause notice, dated 31.08.2021, within a period of two weeks from the date of receipt of a copy of this order. On receipt of such explanation / objection, the 2nd respondent is directed to consider the same and pass appropriate orders on merits and in accordance with law and if there is any encroachment in the place in question, the same would be removed, after affording sufficient opportunity to all the parties concerned and by following due process of law. It is needless to say that since the legal heirs of the petitioner are not impleaded in this Writ Petition, the 2nd respondent shall communicate this order to them.

7. In view of the above, this Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

[D.K.K., J.] & [R.V., J.]

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Index : Yes / No

Internet : Yes / No

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D.KRISHNAKUMAR, J.

AND

R.VIJAYAKUMAR, J.

Myr

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