



W.P.(MD) No.18479 of 2021

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.11.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

AND

THE HONOURABLE MR.JUSTICE J.SATHYA NARAYANA PRASAD

W.P.(MD)No.18479 of 2021

and

W.M.P.(MD)No.15249 of 2021

K.Eswaran

... Petitioner

-Vs-

1.The District Collector,
Theni District.

2.The District Revenue Officer,
District Revenue Office,
Collectorate, Theni & District.

3.The Tahsildar,
Taluk Office, Uthamapalayam Tk.,
Theni District.

... Respondents

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PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order, Na.Ka.No.73/20212, dated 13.09.2021 issued by the 2nd respondent in respect of S.No.3693/62 situated at Ward No.II, Main Road, Kombai, Uthamapalayam Tk, Theni and quash the same and consequently, to issue a direction to issue patta to the petitioner building.

For Petitioner : Mr.P.Vijendran

For Respondents : Mr.S.P.Maharajan

Special Government Pleader

ORDER

[Order of the Court was made by R.MAHADEVAN, J.]

Challenging the eviction notice issued by the 2nd respondent dated 13.09.2021, this Writ Petition is filed with a consequential direction to the respondents to issue patta to the petitioner's building.

2.The learned counsel appearing for the petitioner submitted that the petitioner's community people are in occupation of the disputed area to whom straightaway, the eviction notices have been issued. Earlier, when one

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Velmurugan filed a Writ Petition in W.P.(MD)No.10504 of 2021 seeking removal of encroachment in the same place in question, this Court, by an order dated 24.06.2021, has disposed of the Writ Petition, directing the authorities concerned to afford an opportunity of hearing to the 8th respondent therein, said to be an encroacher, before directing his removal. Pursuant to the said order, an enquiry was conducted, in which, the 8th respondent in W.P.(MD)No.10504 of 2021 gave a statement that the building in question has been under the control of Devendra Kula Velalar for more than 100 years. Solely, based on the aforesaid general statement, the impugned eviction notice has been issued without even issuing show cause notice to the petitioner or conducting enquiry and therefore, the impugned notice is liable to be set aside on the ground of violation of principles of natural justice.

3.The aforesaid submissions are not refuted by the learned Special Government Pleader for the respondents.



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4. In view of the above, the impugned eviction notice dated 13.09.2021, is treated as show cause notice and the petitioner is directed to submit his explanation / objection to the same, enclosing all the relevant materials to substantiate his claim within a period of two weeks from the date of receipt of a copy of this order. On receipt of such explanation / objection, the authority concerned is directed to consider the same and pass appropriate orders on merits and in accordance with law. If there is any encroachment in the place in question, the same shall be removed by the authorities concerned, after affording sufficient opportunity to all the parties concerned and by following due process of law within a period of four weeks thereafter.

5. With the above direction, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

[R.M.D., J.] & [J.S.N.P., J.]

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Index : Yes / No

Internet : Yes / No

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