



W.P.(MD)No.25700 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.11.2022

CORAM

THE HONOURABLE MR.JUSTICE **R.MAHADEVAN**
and
THE HONOURABLE MR.JUSTICE **J.SATHYA NARAYANA PRASAD**

W.P(MD)No.25700 of 2022
and W.M.P.(MD) No.19811 of 2022

K.Ramasamy

... Petitioner

Vs.

1.The Commissioner,
Tirunelveli Corporation,
Tirunelveli.

2.The Tahsildar,
Palayamkottai,
Tirunelveli District.

3.M.Manikannan

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, praying to issue a Writ of Certiorari, to call for the records of the impugned order No.1981/2022 dated 29.10.2022 on the file of the first respondent and quash the same.

For Petitioner

: Mr.G.Prabhu Rajadurai

For 1st Respondent

: Mr.S.P.Maharajan
Standing Counsel

For 2nd Respondent

: Mr.G.V.Vairam Santhosh
Additional Government Pleader

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ORDER

(Order of the Court was made by **R.MAHADEVAN, J.**)

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The petitioner has come forward with this writ petition, challenging the impugned order of the first respondent in No.1217/1981/2022, dated 29.10.2022.

2. Heard Mr.G.Prabhu Rajadurai, learned counsel for the petitioner, Mr.S.P.Maharajan, learned Standing Counsel, who accepts notice on behalf of the first respondent and Mr.G.V.Vairam Santhosh, learned Additional Government Pleader, who accepts notice on behalf of the 2nd respondent. By consent of both parties, the Writ Petition is taken up for final disposal at the admission stage itself.

3. Having regard to the nature of the order proposed to be passed in this writ petition, notice to the 3rd respondent is dispensed with.

4. According to the petitioner, S.No.1041, Block No. 12, Ward BJ, Thatchanallur Zone, Tirunelveli Corporation, is referred as a poramboke land and hence, 1st respondent has no



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jurisdiction to issue the impugned notice and the said land is a natham land, in which, the petitioner and his ancestors are in occupation for more than 75 years and hence, the impugned order is liable to be set aside.

5. By order dated 18.07.2022, in W.P.(MD) No.15204 of 2022, touching upon the same subject, a learned Judge of this Court has directed the official respondents therein to conduct survey and thereafter, proceed further in the manner known to law. Now, according to the learned counsel for the petitioner, the present notice is issued by the Commissioner, Tirunelveli Corporation, who according to him, has no jurisdiction to issue such a notice.

6. Considering the peculiar facts and circumstances of the case, in order to give quietus to the issue, this Writ Petition is disposed of with a direction to the second respondent – Tahsildar to conduct survey after issuing notice the petitioner, the 3rd respondent and any other parties concerned, and if there is any encroachment as claimed by the petitioner, the authorities concerned shall take necessary action for removal of the



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encroachment, after affording an opportunity of hearing to all the parties concerned and by following due process of law. Such an exercise shall be completed within a period of twelve weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

[R.M.D., J.] [J.S.N.P., J.]
14.11.2022

Internet : Yes / No
Index : Yes / No
sj

To

1.The Tahsildar,
Palayamkottai,
Tirunelveli District.



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R.MAHADEVAN, J.

and

J.SATHYA NARAYANA PRASAD, J.

sj

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