



W.P(MD)No.27934 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.12.2022

CORAM :

**THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR
and
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

W.P(MD)No.27934 of 2022
and
WMP(MD)No.22025 of 2022

S.Swaminathan

... Petitioner

vs.

The Executive Officer,
Kanadukathan Town Panchayat,
Kanadukathan-630103,
Sivagangai District.

... Respondent

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, calling for the records of the respondent in his proceedings in Na.Ka.No.309/2020 to quash the same.

For Petitioner : Mr.S.Ramakrishnan
For Respondent : Mr.P.Thilakkumar, Government Pleader



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ORDER

(Order of the Court was made by D.KRISHNAKUMAR, J.)

The petitioner has filed this writ petition challenging the impugned notice dated 18.11.2022, whereby, the respondent asked the petitioner's father to vacate the property comprised in S.No.545/1 to an extent of 0.14.20 ares occupied by him which is classified as sarkar poramboke i.e., the government land.

2. According to the petitioner, the aforesaid notice has been served to one M.Singaram Chettiyar who is his father and he died on 30.01.2009. The said notice has been served to the petitioner. Further, according to the petitioner, no opportunity has been granted to the petitioner to submit his explanation to the respondent. Therefore, on the aforesaid ground, the impugned order is liable to be quashed.



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3. Learned Government Pleader appearing for the respondent submitted that notice has been served to the person concerned and after providing opportunity, appropriate orders will be passed by the authority concerned for removal of encroachment, if any, in the place in question.

4. We have heard the learned counsel for the parties and perused the materials available on record.

5. Perusal of the impugned order dated 18.11.2022 shows that the petitioner's father has been asked to vacate the property comprised in S.No.545/1 to an extent of 0.14.20 ares by stating that it is a sarkar poramboke land, but on the date of passing of the impugned order, the petitioner's father was not alive. Thus, the impugned order has been passed as against a dead person and on that ground alone, the impugned order is liable to be quashed.



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6. Accordingly, the impugned order dated 18.11.2022 is quashed. The respondent is directed to issue fresh notice to the person concerned i.e., petitioner or any other person at the earliest and based on the explanation of the person concerned, appropriate decision shall be taken for removal of the encroachment, if any, in the place in question by 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.

7. With the above direction, the Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

[D.K.K.,J.] & [R.V.,J.]
13.12.2022

Index : Yes / No

Internet : Yes

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To

The Executive Officer,
Kanadukathan Town Panchayat,
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and
R.VIJAYAKUMAR, J.

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ORDER MADE IN
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