



W.P.(MD) No.27592 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

AND

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD)No.27592 of 2022

and

W.M.P.(MD)No.21689 of 2022

M.Murugan

... Petitioner

-Vs-

1.The Executive Officer,
Vadipatti Town Panchayat,
Vadipatti, Madurai District.

2.The Tahsildar,
Vadipatti Taluk, Madurai District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records relating to the impugned order issued by the 1st respondent made in Na.Ka.No.345/2022, dated 28.11.2022 and quash the same as illegal.

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For Petitioner : Mr.R.Murali
For R1 : Mr.M.Sarangan,
Additional Government Pleader
For R2 : Mr.K.Balasubramani,
Special Government Pleader

ORDER

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

The eviction notice dated 28.11.2022 issued by the 1st respondent is under challenge in this Writ Petition.

2.Mr.M.Sarangan, learned Additional Government Pleader takes notice for the 1st respondent and Mr.K.Balasubramani, learned Special Government Pleader takes notice for the 2nd respondent.

3.By consent of both parties, this Writ Petition is taken up for final disposal at the admission stage itself.

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4.The learned counsel for the petitioner submitted that before issuing the eviction notice, which is impugned herein, the petitioner has not been served with any show cause notice, enabling him to submit his explanations / objections as directed by this Court in W.P.(MD)No.1948 of 2022, vide order dated 11.10.2022. He further submitted that the 1st respondent is not a competent authority to pass such an eviction order, only the 2nd respondent is competent to issue notice for removal of encroachment. Hence, the impugned order is liable to be quashed on the aforesaid two grounds.

5.The learned Additional Government Pleader for the 1st respondent fairly submitted that the 2nd respondent is the only competent authority to proceed, if there is any encroachment identified in the place in question.

6.In view of the above, we are of the view that the impugned order passed by the 1st respondent dated 28.11.2022 is liable to be quashed, accordingly, it is quashed. We further observe that since the 2nd respondent is the



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only competent authority, he is at liberty to proceed in accordance with law.

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

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

06.12.2022

Index : Yes / No

Internet : Yes / No

Myr

To

1.The Executive Officer,
Vadipatti Town Panchayat,
Vadipatti, Madurai District.

2.The Tahsildar,
Vadipatti Taluk, Madurai District.

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