



W.P(MD)No.27940 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.27940 of 2022
and
WMP(MD)No.22031 of 2022

C.Bose

... Petitioner

vs.

The Commissioner,
Theni-Allinagaram Municipality,
Theni District.

... Respondent

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, calling for the impugned notice issued by the respondent in Na.Ka.No.1527/2019/F2 dated 29.09.2022 and quash the same as illegal and consequently directing the respondent to allow the petitioner to continue in his tin roofed house situated at S.No.1, Block No.47 situated at Ondiveeran Colony, Allinagaram.

For Petitioner : Mr.C.Jeganathan

For Respondent : Mr.G.Kaleeswaran, standing counsel



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ORDER

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

Challenging the eviction notice dated 29.09.2022 issued by the respondent under Sections 182 and 313 of the Tamil Nadu District Municipalities Act, 1920, the petitioner has filed this writ petition.

2. Learned counsel for the petitioner assailed the impugned notice on the ground that the respondent without providing any opportunity to the petitioner as directed by this Court in W.P(MD)No. 306 of 2020, is attempting to evict the petitioner from the place in question and therefore, the impugned notice is liable to be set aside on the ground of violation of the earlier direction issued by this Court.

3. Heard the learned counsel for the petitioner and Mr.G.Kaleeswaran, learned standing counsel who takes notice for the respondent.

4. Perusal of the order made in W.P(MD)No.306 of 2020, dated 19.10.2022 shows that in the said writ petition, the learned



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Government Advocate produced the present impugned order and submitted that the authorities are now taking steps to remove the encroachment. Thus, recording the said submission, this Court has directed the official respondents therein to remove the encroachments blocking the existing road of Ondiveeran Colony, Allinagaram in Theni District, after affording sufficient opportunity to all the parties concerned and by following due process of law, within a period of twelve weeks from the date of receipt of a copy of that order. It is the grievance of the petitioner, without affording any opportunity to him to put forth his objections, the respondent is trying to evict him from the place in question. Thus, we are of the opinion that the impugned eviction notice cannot be sustained and the said is liable to be quashed on the ground of violation of the earlier direction issued by this Court by not providing sufficient opportunity to the petitioner.

5. At this stage, learned standing counsel appearing for the respondent fairly submitted that the impugned notice may be treated as show cause notice and the petitioner may be directed to submit his



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objection/explanation and after considering the same, the respondent will pass appropriate order in accordance with law.

6. Recording the above submission made by the learned standing counsel for the respondent, the Writ Petition is disposed of and the impugned eviction notice dated 29.09.2022 is treated as show cause notice, for which, the petitioner is directed to submit his objection/explanation on or before 27.12.2022. On receipt of such objection/explanation from the petitioner, the respondent shall consider the same and then pass appropriate orders on merits and in accordance with law. If there is any encroachment in the place in question, the respondent shall remove the same by due process of law as directed by this Court in W.P(MD)No.306 of 2020 dated 19.10.2022 as expeditiously as possible. 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 Commissioner,
Theni-Allinagaram Municipality,
Theni District.



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D.KRISHNAKUMAR, J.
and
R.VIJAYAKUMAR, J.

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ORDER MADE IN
W.P(MD)No.27940 of 2022
DATED : 13.12.2022