



WEB COPY



WP No1693 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.04.2023

CORAM

**THE HON'BLE MR. JUSTICE R. MAHADEVAN**

AND

**THE HON'BLE MR. JUSTICE MOHAMMED SHAFFIQ**

W.P No. 1693 of 2020  
and W.M.P.No.1967 of 2020

Dasthakeer Babu

.. Petitioner

Versus

1. The Commissioner  
Udhagamandalam Municipality  
Udhagamandalam

2.The Tahsildar  
Ooty, Nilgris District

3.S.Shanthi  
(R3 Impleaded vide Order of this court dated 28.03.2023  
made in W.M.P.No.24606/2021 in W.P.No.1693/2020)

.. Respondents

Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus directing the respondent to desist from removing the petitioner from Door No.41/51, UMC Line, Upper Bazaar, Ooty, Nilgiris District and further direct the 2<sup>nd</sup> respondent to issue patta to the



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petitioner to the petitioner's land Door No.41/51, UMC Line, Upper Bazaar, Ooty, Nilgiris District based on the representation dated 29.07.2016.

For Petitioner : Mr.K.V.Sajeevkumar  
For Respondents : Mr.P.Srinivas for R1  
Mr.A.Selvendran for R2  
Special Government Pleader  
Mr.M.Vijayaraghavan for R3

### **ORDER**

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

The relief sought in this Writ Petition is to issue a writ of mandamus, directing the respondent authorities to desist them from removing the petitioner from the property in Door No.41/51, UMC Line, Upper Bazaar, Ooty, Nilgiris District and further direct the 2<sup>nd</sup> respondent to issue patta to the petitioner in respect of the said property, based on his representation dated 29.07.2016.

2. According to the learned counsel for the petitioner, while the petitioner's parents and their family were living in the Lower Bazaar Area, Ooty, due to heavy flood in 1979-80 that caused landslides in most of the places in Ooty, the Commissioner of Municipality in the process of evacuation,



were asked them along with 18 other families to reside in the subject property during 1980-81. Ever since, the petitioner and his family have been in possession of the same and provided all the basic amenities by collecting necessary charges. The petitioner further stated that as they are continuously residing in the said property for the past 40 years, he made application to the respondent authorities seeking patta, which is pending consideration. While so, pursuant to the order dated 18.07.2019, passed in WP.No.6058 of 2019 at the instance of the third respondent herein, the petitioner was issued with a notice dated 07.03.2019, directing him to vacate the property and hand over the same to the Municipality as if he is an encroacher. Aggrieved against the same, the petitioner is before this court with the present writ petition.

3. On the other hand, the learned counsel for the third respondent submitted that earlier, the third respondent who was impleaded as per the order dated 28.03.2023 passed in WMP.No.24606 of 2021 in WP.No.1693 of 2020, preferred a writ petition viz., W.P.No.6058 of 2019 to direct the respondent authorities to remove the encroachment in the common passage comprised in S.No.E/12/6, which is close to the Municipal Residential Quarters, Udthagamandalam, The Nilgiris District, in which the third respondent and her



family are residing; and this court by order dated 18.07.2019, disposed of the said writ petition, recording the submissions made by the learned counsel that the respondent authorities would take expeditious steps to remove the encroachment. However, no steps have been taken by the respondent authorities, till date.

4. The learned counsel appearing for the respondent authorities submitted that following the order dated 18.07.2019 passed in WP.No.6058 of 2019, the respondent authorities have initiated necessary proceedings as per law. However, in view of the order of *status quo* granted in WP.No.1693 of 2020, they have stopped the action against the encroachers.

5. Considering the facts and circumstances of this case coupled with the submissions made by the learned counsel appearing for all the parties and also taking into consideration the undertaking already given by the Commissioner, Udthagamandalam Municipality that they would take expeditious steps to remove the encroachment in the subject property, as observed in the order dated 18.07.2019 in WP.No.6058 of 2019, this Court, without going into the merits of the case, directs the respondent authorities to conduct enquiry, after issuing



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notice to all the parties including the petitioner and the third respondent, and verify the revenue records and thereafter, proceed further, with regard to removal of encroachment, if any, in the manner known to law. Such an exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this Order.

6. Accordingly, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

**[R.M.D., J.]                      [M.S.Q., J.]**  
**13.04.2023**

Index : Yes / No  
Speaking Order : Yes/No  
Neutral Citation : Yes/No  
dhk

To  
1. The Commissioner  
Udhagamandalam Municipality  
Udhagamandalam

2.The Tahsildar  
Ooty, Nilgris District



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**R. MAHADEVAN, J.  
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MOHAMMED SHAFFIQ, J.**

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