



W.P.(MD) No.406 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.01.2023

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

AND

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD)No.406 of 2023

and

W.M.P.(MD)Nos.381 & 382 of 2023

A.Bhuvaneswaran

... Petitioner

-Vs-

1.The District Collector,
Dindigul District.

2.The Revenue Divisional Officer,
Dindigul District.

3.The Thasildhar,
Aathur Taluk, Dindigul District.

4.The Executive Officer,
Chinnalapatti Town Panchayat,
Dindigul District.

5.N.Arumugam

... Respondents

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PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records pertaining to the impugned notice dated 12.12.2022 in Na.Ka.No.1127/2019/Aa issued by the 4th respondent and to quash the same as illegal.

For Petitioner : Mr.M.Viji
For R1 to R3 : Mr.V.Nirmal Kumar
Government Advocate
For R4 : Mr.P.Thilak Kumar
Government Pleader

ORDER

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

The eviction notice dated 12.12.2022 issued by the 4th respondent, directing the petitioner to remove the encroachment in Survey Nos.698/10 and 50/4, is under challenge in this Writ Petition.

2.Mr.V.Nirmal Kumar, learned Government Advocate takes notice for the respondents 1 to 3 and Mr.P.Thilak Kumar, learned Government Pleader takes notice for the 4th respondent. Considering the nature of order proposed to be passed in this Writ Petition, notice to the 5th respondent is dispensed with.

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

4.The primordial allegation of the petitioner is that the 4th respondent has issued the impugned eviction notice only to this petitioner for removal of the encroachment in the lands in question. Therefore, the action of the 4th respondent is clearly arbitrary. Further, the 4th respondent has not issued any show cause notice to the petitioner, enabling him to submit his objection / explanation.

5.A perusal of the impugned eviction notice shows that sufficient opportunity has been granted to the petitioner and he has also submitted his reply vide letters dated 06.07.2021 and 08.12.2022. It further shows that the petitioner has also given an undertaking that he will remove the encroachment on or before 21.12.2022. In view of the above, the contention of the petitioner cannot be accepted.

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6.As far as the other allegation of the petitioner that the 4th respondent has issued the impugned eviction notice only to this petitioner is concerned, the learned Government Pleader for the 4th respondent, on instructions from one S.Pitchai, Junior Assistant, Chinnalapatti Town Panchayat, Dindigul District, who appeared in-person before this Court, submitted that the lands in question are classified as Street and Vandipathai, therefore, the petitioner has no right to claim any right over the same.

7.In the light of the above submissions, this Writ Petition stands dismissed. However, it is for the 4th respondent to take necessary action for removal of the encroachment in the lands in question without any further delay by following due process of law. No costs. Consequently, connected miscellaneous petitions are closed.

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

09.01.2023

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NCC : Yes / No

Index : Yes / No

Internet : Yes / No

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