



W.P.(MD) No.2401 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.02.2023

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD)No.2401 of 2023
and W.M.P.(MD)Nos.2183 & 2184 of 2023

Shanthi

... Petitioner

Vs.

1.The Tiruchirappalli Corporation,
Rep. by its Commissioner,
Tiruchirappalli.

2.The Assistant commissioner,
Zone 5, Tiruchirappalli Corporation,
Tiruchirappalli.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records pertaining to the impugned order passed by the 2nd respondent in Na.Ka.No.3977/2001/F1, dated 09.01.2023, quash the same.



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For Petitioner : Mr.R.Subramanian
for Mr.M.Saravanan

For Respondents : Mr.R.Baskaran,
Standing Counsel.

ORDER

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

Challenging the impugned order passed by the 2nd respondent in Na.Ka.No.3977/2001/F1, dated 09.01.2023, the petitioner has filed this Writ Petition.

2. Heard Mr.R.Subramanian, learned counsel on behalf of Mr.M.Saravanan, learned counsel appearing for the petitioner and Mr.R.Baskaran, learned Standing Counsel, who takes notice of the respondents Corporation.

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

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4. The learned counsel appearing for the petitioner submitted that the petitioner is the owner of the house property bearing Door No.62, South Vellala Street, Situated in T.S.No.70/1A Old T.S.No.3/2521, measuring 60 sq. mts. Since the respondents tried to disturb the possession, the petitioner's mother and other residents have jointly filed O.S.No.1192 of 2001 on the file of District Munsif Court, Trichirappalli, for permanent injunction and in the said suit, an interim injunction was granted. He further submitted that the said suit is still pending. At this stage, the 2nd respondent has passed the impugned order, directing the petitioner to vacate the premises within seven days. He further submitted that without issuing any show cause notice, the 2nd respondent has passed the impugned order and therefore, the same is liable to be dismissed.

5. At this juncture, the learned Standing counsel appearing for the respondents Corporation fairly submitted that the impugned notice may be treated as show cause notice and the petitioner may be directed to submit her objections, which will be considered by the authorities concerned and only then,



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appropriate action will be taken for removal of encroachment, if any, in the place in question.

6. Recording the said submissions, we are inclined to pass the following order:

1) the impugned order dated 09.01.2023, passed by the 2nd respondent is treated as show cause notice;

2) the petitioner is directed to file her objections / reply to the same before the 2nd respondent, along with all supporting materials, within a period of two (2) weeks from the date of receipt of a copy of this order;

3) after receipt of the same, the 2nd respondent shall consider such objections and pass appropriate orders in accordance with law within a period of four [4] weeks thereafter; and

4) If there is any encroachment, the 2nd respondent is directed to remove the same, without any further delay.



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WEB COPY 7. With the above directions, this Writ Petition is disposed of. No costs.

Consequently, connected Miscellaneous Petitions are closed.

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

07.02.2023

NCC : Yes / No

Index : Yes / No

vsm

To

- 1.The Tiruchirappalli Corporation,
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Tiruchirappalli.
- 2.The Assistant commissioner,
Zone 5, Tiruchirappalli Corporation,
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