



W.P.(MD) No.2559 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

**DATED : 08.02.2023**

**CORAM:**

**THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR**

**AND**

**THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

**W.P.(MD)No.2559 of 2023**

**and**

**W.M.P.(MD)No.2326 of 2023**

Gnanagiri

... Petitioner

-Vs-

1.The District Collector,  
Trichy District, Trichy.

2.The Executive Officer,  
S.Kannanur,  
Special Grade Town Panchayat,  
Trichy District.

... Respondents

**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

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For Petitioner : Mr.T.Lenin Kumar

For Respondents : Mr.K.Balasubramani

Special Government Pleader

### **ORDER**

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

The eviction notice dated 31.01.2023 issued by the 2<sup>nd</sup> respondent is under challenge in this Writ Petition.

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

3.Mr.K.Balasubramani, learned Special Government Pleader takes notice on behalf of the respondents.

4.According to the petitioner, he is in possession and enjoyment of the land in Old Survey No.105, New Survey No.252, to an extent of 90 sq.meter

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situated at S.Kannanur West Village, Mannachanallur Taluk, Trichy District, which is classified as Natham land. In such circumstances, the 2<sup>nd</sup> respondent issued show cause notice dated 06.05.2022, stating that the land in question belongs to the Government, for which, one Arunachalam, who is none other than the uncle of the petitioner, submitted an explanation to the 2<sup>nd</sup> respondent. Since the 2<sup>nd</sup> respondent is not competent to initiate eviction proceedings, the petitioner submitted additional reply dated 18.05.2022 to the 2<sup>nd</sup> respondent. However, the 2<sup>nd</sup> respondent did not come forward to drop the proceedings. Therefore, challenging the said notice, the said Arunachalam filed W.P.(MD)No.10520 of 2022, wherein this Court, by an order dated 25.05.2022, set aside the impugned order dated 06.05.2022 by giving liberty to the 2<sup>nd</sup> respondent to initiate proceedings under the relevant law. Therefore, the 2<sup>nd</sup> respondent has issued the present impugned eviction notice dated 31.01.2023.

5.The learned counsel appearing for the petitioner submitted that the impugned eviction notice dated 31.01.2023 is liable to be quashed on the ground that the 2<sup>nd</sup> respondent has not given any opportunity of hearing to the petitioner to place his objections / explanations.

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6.The learned Special Government Pleader appearing for the respondents, on instructions, submitted that pursuant to the directions of this Court dated 25.05.2022, made in W.P.(MD)No.10520 of 2022, the present impugned order has been issued to the petitioner and the land in Survey No.252 to an extent of 1.19.0 Ares is notified for construction of Weekly Market. Since the petitioner is running a hotel business in the land in question to an extent of 90 sq.meter, if the petitioner approaches the respondent concerned, patta will be issued based on the market value.

7.At this juncture, the petitioner has restricted his prayer in respect of only to an extent of 90 sq.meter and in respect of the remaining extent of the land, the petitioner has no right for asking any relief as against the respondents.

8.A perusal of the impugned eviction notice shows that the same has been issued to the petitioner without issuing any show cause notice to him. Therefore, we direct that the impugned eviction notice dated 31.01.2023 shall be

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treated as show cause notice. The petitioner is permitted to make an objection / explanation to the show cause notice, dated 31.01.2023, within a period of two weeks from the date of receipt of a copy of this order. On receipt of such objection / explanation, the 2<sup>nd</sup> respondent is directed to consider the same and pass appropriate orders on its own merits and in accordance with law within a period of eight weeks thereafter and if there is any encroachment in the land in question, the same would be removed, after affording sufficient opportunity to all the parties concerned and by following due process of law. Till such time, no coercive steps would be taken against the petitioner in respect of 90 sq.meter.

9. With the above direction, the Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

**[D.K.K., J.] & [L.V.G., J.]**

**08.02.2023**

NCC : Yes / No  
Index : Yes / No  
Internet : Yes / No

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**D.KRISHNAKUMAR, J.**  
**AND**  
**L.VICTORIA GOWRI, J.**

*MYR*

To

- 1.The District Collector,  
Trichy District, Trichy.
- 2.The Executive Officer,  
S.Kannanur,  
Special Grade Town Panchayat,  
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