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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

AND

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD)No.6308 of 2024
and
W.M.P.(MD)No.5908 of 2024

V.Murugan ... Petitioner

-Vs-

1.The District Collector,
Madurai District,
Madurai.

2.The Tahsildar,
Thiruparangundram Taluk,
Thiruparangundram,
Madurai District.

3.The President,
Nilayur Bit-I, Village,
O/o.the Kuthiyargundu,
Thiruparangundram Taluk,
Madurai District. ... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the second

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respondent in connection with the impugned eviction notice issued by him vide his proceedings in Na.Ka.No.4604/2023/C dated 09.03.2024 and quash the same as illegal, arbitrary and consequently direct the respondents not to disturb my petty shop (Tiffin shop) situated in Survey No.301 0.00.40 sq.mt. Nilayur Bit-I Village, Thiruparangundram, Madurai District based on the third respondent certificate dated 19.02.2024.

For Petitioner : Mr.T.Palanisamy
For R1 & R2 : Mr.N.Satheesh Kumar
Additional Government Pleader
For R3 : Mr.S.P.Maharajan

ORDER

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

The eviction notice issued by the second respondent dated 09.03.2024 is put to challenge in this writ petition.

2.Mr.N.Satheesh Kumar, learned Additional Government Pleader takes notice for the first and second respondents and Mr.S.P.Maharajan, learned Special Government Pleader takes notice for the third respondent. By consent of both parties, this writ petition is taken up for final disposal at the admission stage itself.

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3.According to the petitioner, he is running a petty shop in Survey No. 301 at Nilayur Bit-I Village, Thiruparangundram, Madurai District for more than 40 years. He is paying property tax to the third respondent and availed electricity connection also. Without considering all these facts, the third respondent suddenly issued the eviction notice stating that the property in question is classified as Grama Natham Poromboke land and directing the petitioner to vacate the premises within a period of 7 days. Hence, the petitioner has filed the present writ petition.

4.The learned Special Government Pleader appearing for the third respondent submits that the property in question belongs to the Government and hence, notice under Sections 6 and 7 of the Land Encroachment Act had been issued. He further submits that there is an alternative appeal remedy under Section 10 of the Land Encroachment Act before the first respondent. The petitioner without challenging the same, has preferred this petition.

5.Admittedly, the petitioner is having an effective appeal remedy before the first respondent under Section 10 of the Land Encroachment Act. Without adverting to the same, the petitioner has filed the writ petition.

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Therefore, without going into the merits of the matter, we direct the petitioner to file an appeal before the first respondent within a period of two weeks from the date of receipt of a copy of this order.

6.With the above direction, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

[D.K.K., J.] & [R.V., J.]
14.03.2024

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

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D.KRISHNAKUMAR, J.

AND

R.VIJAYAKUMAR, J.

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