



1

W.P.(MD)NO.6584 OF 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 18.03.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.6584 of 2024 AND
W.M.P.(MD)No.6145 of 2024

M.Nagarajan

... Petitioner

Vs.

The Commissioner,
Palani Municipality,
Palani Town and Taluk,
Dindigul District.

... Respondent

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records relating to the impugned order passed by the respondent in his proceedings in Na.Ka.No.254/2024/F1 dated 06.03.2024 and quash the same as illegal, arbitrary in violation of principles of natural justice and in violation of judgment and decree passed by the District Munsif Court, Palani in O.S.No.274 of 2013 dated 09.01.2015 and the order passed by this Court in W.P.(MD)No.2687 of 2024 dated 07.02.2024.

For Petitioner	: Mr.B.Saravanan, Senior counsel, for Mr.D.Kirubakaran.
For Respondent	: Mr.LP.Maurya

* * *

**ORDER**

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Heard the learned Senior counsel appearing for the writ petitioner and the learned Standing counsel appearing for Palani Municipality.

2. The Municipality had issued the impugned notice dated 06.03.2024 calling upon the petitioner to vacate and hand over the petition mentioned shop. The learned Senior counsel points out that when the petitioner earlier received the similar eviction notice, he filed W.P.(MD)No.2687 of 2024 and that he got interim protection till the disposal of A.S.No.21 of 2023 on the file of the Sub Court, Palani. My attention is drawn to paragraph No.9 of the order dated 07.02.2024 passed by the Hon'ble Division Bench in W.P.(MD)No.2687 of 2024. It reads as follows:-

“ 9. It is brought to the notice of this Court that for the property in question in T.S.No.11 corresponding to Old Survey No.889/1, the petitioner filed a suit against the Revenue Department and Devasthanam praying permanent injunction not to dispossess him from the said property. The said suit came to be dismissed. Challenging the same the petitioner preferred an appeal, wherein the first Appellate Court has granted an interim order in favour of the petitioner. In the meantime, the present impugned



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notice has been issued to the petitioner. In such circumstances, we direct the learned Sub Judge, Palani, to dispose A.S.No.21 of 2023 filed by the petitioner herein, on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order. It is needless to state that the petitioner shall cooperate for early disposal of the appeal suit. Till such time, the impugned notice shall be kept in abeyance. After disposal of the said appeal suit, appropriate action may be taken in accordance with law, if necessary.”

3. The stand of the learned Senior counsel appearing for the petitioner is that so long as this direction is holding good, the petitioner cannot be thrown out in the guise of enforcement of the direction given in Cont.P.(MD)No.1671 of 2018. He called upon this Court to set aside the impugned order and grant the relief as prayed for.

4. The learned Standing counsel appearing for the local body categorically submitted that on account of the direction given in Cont.P. (MD)No.1671 of 2018 dated 04.03.2024, the impugned notice came to be issued.

5. I carefully considered the rival contentions and went through materials on record.

6. I wanted to know from the learned Senior counsel as to the prayer made in O.S.No.85 of 2020 on the file of the District Munsif



Court, Palani. The suit prayer is that the petitioner should not be dispossessed by the authorities except by due process of law. It is true that challenging the dismissal of the suit vide judgment and decree dated 03.06.2023, the petitioner filed A.S.No.21 of 2023 on the file of the Sub Court, Palani. The appellate Court has granted interim protection in favour of the petitioner. Be that as it may, the local body can very well concede the petitioner's prayer in A.S.No.21 of 2023. It will in noway worsen the position of the local body. By keeping it pending, the interim order has been allowed to operate indefinitely. I am clearly of the view that the direction given in W.P.(MD)No.2687 of 2024 cannot come in the way of the enforcement of the direction set out in Cont.P.(MD)No.1671 of 2018. The interim protection of the petitioner would be only to the extent of holding that he cannot be thrown out except by due process of law.

7. In this view of the matter, I decline to interfere. The learned Senior counsel appearing for the petitioner asserts that the petitioner is not occupying Giri veethi. If that be so, it is open to the petitioner herein to obtain appropriate clarification from the Hon'ble Division Bench in the pending contempt petition. The petitioner is granted liberty to move the Hon'ble Division Bench. When the Hon'ble Division Bench is seized of



the matter, it would not be appropriate for this Court to proceed to adjudicate if the petitioner is occupying Giri Veethi or not. The petitioner can very well file an MP in the contempt petition and work out his rights.

8. The respondent through his counsel states he will file an MP tomorrow. The petitioner shall not be dispossessed for a period of seven more days. With this liberty to the petitioner, this writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

18.03.2024

Index : Yes / No

Internet : Yes/ No

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To:

The Commissioner,
Palani Municipality,
Palani Town and Taluk,
Dindigul District.



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6

W.P.(MD)NO.6584 OF 2024

G.R.SWAMINATHAN,J.

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W.P.(MD)No.6584 of 2024

18.03.2024