



WEB COPY



W.P.(MD) No.26046 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.02.2024

CORAM:

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

AND

THE HONOURABLE **MR.JUSTICE R.VIJAYAKUMAR**

W.P.(MD)No.26046 of 2019

and

W.M.P.(MD)No.22532 of 2019

Lakshmiammal

... Petitioner

-Vs-

1.The Commissioner,
Thoothukudi Corporation, Thoothukudi.

2.The Tahsildar,
Town Survey, Sub Collector Office,
Beach Road, Thoothukudi.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records relating to the proceedings of the impugned notice dated 30.10.2019 on the file of the 1st respondent and quash the same.

For Petitioner : Mr.G.Prabhu Rajadurai

For R1 : Mr.N.Anandkumar, Standing Counsel

For R2 : Mr.S.P.Maharajan,
Special Government Pleader



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ORDER

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

The eviction notice dated 30.10.2019, issued by the 1st respondent, is under challenge in this Writ Petition.

2. According to the petitioner, one Ramona and another filed a suit in O.S.No.498 of 2007 on the file of the Additional District Munsif Court, Thoothukudi, seeking for declaration that the property in question to be declared as public pathway. The petitioner also filed a suit in O.S.No.492 of 2010 seeking to set aside the illegal classification of the property in question as public street. Both the suits were dismissed vide common judgment dated 28.01.2019, directing the respondent Corporation to conduct an enquiry after giving notice to the parties and find out as to whether the portion of the property was a public street. Further, challenging the said decree and judgment, both the parties filed appeals in A.S.Nos.52 & 53 of 2019 before the Sub Court, Thoothukudi and the same are pending. In such circumstances, based on the said judgment dated 28.01.2019, the present eviction notice dated 30.10.2019 is issued.

3. The learned counsel appearing for the petitioner would submit that the aforesaid appeal suits filed by the parties have been allowed and the suits are



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remitted back to the Additional District Munsif Court, Thoothukudi by judgment dated 02.11.2023, which are now pending. Therefore, the present eviction notice is liable to be quashed.

4.The learned counsel appearing for the respondent Corporation would submit that the impugned eviction notice was issued to the petitioner in the year 2019 based on the judgment and decree dated 28.01.2019 and thereafter, in the year 2023, the suits were remanded back to the trial Court for fresh consideration. Therefore, based on the outcome of the suits, fresh notice will be issued to the petitioner.

5.In view of the said submissions, the impugned eviction notice dated 30.10.2019 is quashed and this Writ Petition is allowed with liberty to the respondent Corporation to issue fresh notice to the petitioner, subject to the outcome of the suits, which are pending before the trial Court. No costs. Consequently, connected miscellaneous petition is closed.

[D.K.K., J.] & [R.V., J.]
29.02.2024

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

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AND

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To

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Town Survey, Sub Collector Office,
Beach Road, Thoothukudi.

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