



W.P.(MD) No.1882 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.01.2024

CORAM:

**THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR
and
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

W.P.(MD) No.1882 of 2024

M.Krishnan @ Kicha

... Petitioner

-VS-

1.The District Collector,
Madurai District.

2.The Commissioner,
Melur Municipality,
Madurai District.

3.The District Revenue Officer,
Madurai District.

4.The Revenue Divisional Officer,
Melur @ Narasingampatti,
Melur Taluk,
Madurai District.

5.The Tahsildar,
Melur Taluk,
Madurai District.

6.S.Gopinath

... Respondents

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PRAYER: Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records of the 2nd respondent dated 10.01.2024 in Na.Ka.No.417/2022/F1 issued under Section 128(1)(b) & (2) of the Tamilnadu Urban Local Bodies Act, 1998 to remove the encroachments made in Ward A, Block 20, Town Survey No.115, Anumarkovil Street, Melur, Madurai District and to quash the same as illegal and in consequentially direct the respondents 1 to 5 to include the Vinayagar Temple in Town Survey No.115 by rectify error took place in the UDR Survey by considering the petitioner's representation dated 07.07.2023 by providing fair opportunity of being heard by following the principles of natural justice within a stipulated time that may be fixed by this Court.

For Petitioner : Mr.R.Rajamohan

For Respondents : Mr.T.Amjadkhan,
Government Advocate for R1 to R5

ORDER

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

The Writ Petition has been filed challenging the proceedings of the 2nd respondent dated 10.01.2024, in Na.Ka.No.417/2022/F1, issued under Section 128(1)(b) & (2) of the Tamilnadu Urban Local Bodies Act, 1998 to remove the encroachments made in Ward A, Block 20, Town Survey No.115, Anumarkovil



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Street, Melur, Madurai District and consequentially, to direct the respondents 1 to 5 to include the Vinayagar Temple in Town Survey No.115, by rectifying the error took place in the UDR Survey.

2. By consent of both sides, this Writ Petition is taken up for final disposal at the time of admission itself. Considering the nature of the order proposed to be passed in this Writ Petition, protecting the interests of the 6th respondent also, notice to the 6th respondent is dispensed with.

3. According to the petitioner, he is the founder and Managing Trustee of Sri Selva Vinayagar Temple situated at Anumarkovil Street, Melur, Madurai District. The Government issued G.O.(Ms) No.64, Revenue and Disaster Management Department, Land Disposal Wing, LD.6(2), dated 08.02.2022, constituting Monitory Committees to dispose of the grievances relating to the eviction of encroachment in Government lands. The Divisional Monitoring Committee, chaired by the Revenue Divisional Officer, Melur has caused notice to petitioner to appear for an enquiry on 02.01.2024 at 3.00 regarding the removal of encroachment. Again the petitioner was called for enquiry on 22.01.2023 at



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3.00 p.m. While that being so, the respondent Municipality has served the impugned notice to the petitioner to vacate the said Temple within 15 days, failing which, penalty of Rs.20,000/- will be imposed on him and he should also meet out the expenses for removing the encroachment.

5. Though, the learned Government Advocate appearing for the respondents 1 to 5 strongly objected the contention of the petitioner, when this Court raised a specific query as to when the issue is pending before the Divisional Monitoring Committee constituted as per G.O.(Ms) No.64, Revenue and Disaster Management Department, Land Disposal Wing, LD.6(2), dated 08.02.2022, and the petitioner was called upon to appear for an enquiry on 22.01.2023, how, the respondent Melur Municipality can issue the impugned notice on 10.10.2024, there is no answer.

5. Therefore, when the entire issue is pending before the Divisional Monitoring Committee constituted under G.O.(Ms) No.64, Revenue and Disaster Management Department, Land Disposal Wing, LD.6(2), dated 08.02.2022, and the petitioner was called for an enquiry on 22.01.2023, without getting orders



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from the Divisional Monitoring Committee, it is not proper on the part of the respondent Municipality to issue the impugned notice, which is totally illegal and arbitrary and is against law. In such circumstances, we have safely come to a conclusion to quash the impugned notice.

6. Accordingly, the Writ Petition stands allowed and the impugned notice of the 2nd respondent dated 10.01.2024, in Na.Ka.No.417/2022/F1, issued under Section 128(1)(b) & (2) of the Tamilnadu Urban Local Bodies Act, 1998, is quashed and the 4th respondent, who is the Chairman of the Divisional Monitory Committee is directed to conclude the enquiry pursuant to the notice issued to the petitioner on 26.12.2023 and 19.01.2024, after affording an opportunity of hearing to the petitioner, the 6th respondent and any other parties and pass appropriate orders on merits and in accordance with law and communicate the decision taken to the Commissioner, Melur Municipality, Melur, for taking further action. No costs. Consequently, connected Miscellaneous Petition is closed.

[D.K.K., J.] [R.V., J.]
31.01.2024

Index : Yes / No
Internet : Yes / No
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D.KRISHNAKUMAR, J.
and
R.VIJAYAKUMAR, J.

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To

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