

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.04.2015

CORAM:

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI
and
THE HON'BLE MR. JUSTICE M. VENUGOPAL

W.P. No.11758 of 2015

and

M.P. No.1 of 2015

E. Shanmugasundaram

... Petitioner

Vs.

The Tahsildar
Annur Taluk
Coimbatore District

... Respondent

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorari calling for the records relating to the impugned notice dated 25.03.2015 issued by the respondent and quash the same as illegal, without jurisdiction and in violation of the provisions of the Tamil Nadu Land Encroachment Act, 1905.

For petitioner : Mr. K. Suresh

For respondent : Mr. P.S. Sivashanmugasundaram
Special Government Pleader

ORDER

(Order of the Court was made SATISH K. AGNIHOTRI, J.)

Mr. P.S. Sivashanmugasundaram, learned Special Government Pleader, takes notice for the respondent. With the consent of the learned counsel for the parties, the writ petition is taken up for final disposal, at the time of admission itself.

2. This writ petition is filed challenging the notice dated 25.03.2015 issued by the respondent under Section 6 of the Tamil Nadu Land Encroachment Act, 1905 (for short "the Act").

3. The case of the petitioner is that the impugned notice under Section 6 of the Act has been issued without taking recourse to the prescription under Section 7 of the Act, which provides for

issuance of notice and affording an opportunity of hearing to the alleged encroacher. In the absence of the same, the petitioner has been prejudiced as he was not in a position to put forward his case. Accordingly, the impugned notice deserves to be quashed.

4. The learned Special Government Pleader appearing for the respondent also submits that on a perusal of the impugned notice, it is not clear as to what steps have been taken before the same was issued.

5. We have heard the learned counsel for the parties and perused the pleadings and also the documents appended thereto.

6. From a scrutiny of any of the documents, it does not appear that an opportunity of hearing was afforded to the petitioner under Section 7 of the Act. Thus, we are of the considered view that the impugned notice be treated as a notice issued under Section 7 of the Act, affording an opportunity of hearing to the petitioner to file reply/representation to put forward his case, within a period of two weeks. Thereafter, the authorities shall be competent to pass appropriate orders on merits and in accordance with law and also take necessary enforcement action.

7. The writ petition stands allowed accordingly. Costs made easy. Connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

cad

To

The Tahsildar
Annur Taluk
Coimbatore District

+1cc to Mr.E.K.Kumaresan, Advocate, S.R.No.22115

+1cc to the Government Pleader, S.R.No.22544

W.P. No.11758 of 2015

EV(CO)
CA(30/04/2015)