

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13/7/2015

C O R A M

THE HONOURABLE MR. JUSTICE SATISH K. AGNIHOTRI
AND

THE HONOURABLE MR. JUSTICE M. VENUGOPAL

W.P. No.20736 of 2015

and

M.P. No.1 of 2015

N. Prabhuram

Petitioner

Vs

1. The State of Tamil Nadu
rep. By its Secretary
Revenue Department
Fort St. George
Chennai 600 009.

2. The District Collector
Thiruvallur District.

3. The District Revenue Officer
Thiruvallur District.

4. The Tahsildar - Poonamalee
Thiruvallur District 602 001.

Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorari, calling for the records of the fourth respondent in its Notice dated 19/6/2015 in Na.Ka.No.24/2015/A2 and quash the same.

For petitioner... Mr.S.R.Rajagopal

For respondents ... Mr. P.S. Sivashanmugasundaram
Special Government Pleader

O R D E R

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

Mr. P.S. Sivashanmugasundaram, learned Special Government Pleader, takes notice for the respondents. With the consent of the learned counsel on either side, the writ petition is taken up for final disposal at the admission stage itself.

2. Being aggrieved by the notice dated 19/6/2015 issued under Section 6 of the Land Encroachment Act, 1905, (for short "the Act") calling upon the petitioner to remove the encroachment, the petitioner has come up with the instant writ petition, questioning the legality of the said notice on the ground that the same has been issued, directing eviction, without affording an opportunity of hearing to him .

3. It is submitted by the learned Counsel appearing for the petitioner that Section 7 of the Act contemplates issuance of a notice and also affording an opportunity of hearing before passing an order / notice under Section 6 of the Act. The issue with regard to purported encroachment in the area came up for consideration in W.P. No.10246 of 2014. A Division Bench of this Court directed the Tahsildar, Chengalpet to consider the representation dated 4/7/2013, made by one K.S. Rajan, the petitioner therein and take action after notice to all the parties. The authorities, without notice and affording an opportunity of hearing to the petitioner against whom allegation of encroachment was made, passed the impugned order. Thus, the same is not sustainable in the eye of law.

4. The learned Special Government Pleader appearing for the respondents would submit that on a perusal of the impugned notice, as there is no reference of any notice issued under Section 7 of the Act, it appears that opportunity of hearing was not afforded to the petitioner. Thus, the impugned notice may be treated as notice under Section 7 of the Act, granting reasonable time to the petitioner to file his reply to the same. Thereafter, the authorities be permitted to take action on merits and in accordance with law.

5. We are of the view that the submission of the learned Special Government Pleader is reasonable. If there is no notice under Section 7 of the Act, the impugned notice which is issued under Section 6 of the Act be treated as notice under Section 7 of the Act. The petitioner is accordingly granted three weeks time to file his reply, putting forward his case before the authorities. Thereafter, the authorities, after considering the petitioner's reply, shall pass appropriate orders and take action in accordance with law and on their own merits. If it is found that there is encroachment, necessary steps for removal of the same shall be taken within a further period of three weeks.

6. With the above direction and observation, the writ petition stands disposed of. Costs made easy. Connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

mvs.

To

1. The Secretary
State of Tamil Nadu
Revenue Department
Fort St. George
Chennai 600 009.

2. The District Collector
Thiruvallur District.

3. The District Revenue Officer
Thiruvallur District.

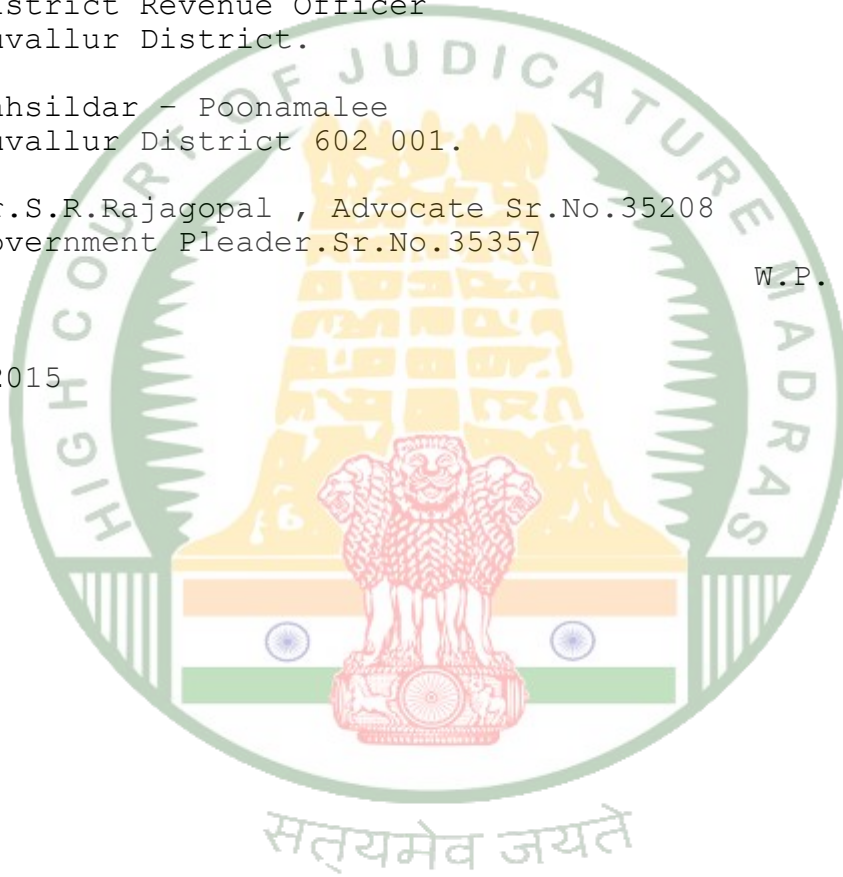
4. The Tahsildar - Poonamalee
Thiruvallur District 602 001.

1 cc to Mr.S.R.Rajagopal , Advocate Sr.No.35208

1 cc to Government Pleader.Sr.No.35357

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