

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.08.2015

CORAM:

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI  
and  
THE HON'BLE MR. JUSTICE K.K. SASIDHARAN

W.P. Nos.24396 & 24397 of 2015 and M.P. Nos.1 & 2 of 2015

K. Shanthi Petitioner  
(in WP No.24396 of 2015)

V. Rajendiran Petitioner  
(in WP No.24397 of 2015)  
Vs.

The Executive Officer,  
Thiyagadurugam Town Panchayat,  
Thiyagadurugam,  
Kallakurichi Taluk,  
Villupuram District.

Respondent  
( In both W.Ps.)

Writ Petitions filed under Article 226 of the Constitution of India seeking a writ of Certiorarified mandamus calling for the records relating to the impugned Notice of the Respondent dated 14.07.2015 issued to the petitioners, quash the same and consequently forbear the respondent from interfering with the peaceful possession and enjoyment of the petitioners in their dwelling house bearing Door No.70 Santhaimedu Thiyagadurugam Town Panchayat and Door No.13 Santhaimedu, Thiyagadurugam Town panchayat respectively and comprised in Survey No.266/1 of Prithivimangalam Village Kallakurichi Taluk Villupuram District.

For petitioners Mr. S. Rajendran  
For respondent Mrs. A. Sri Jayanthi  
Spl. Govt. Pleader

COMMON ORDER

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

Mrs. A. Srijayanthi, learned Special Government Pleader, accepts notice for the respondent. With the consent of the learned counsel for the parties, the writ petitions are taken up for final disposal, at the admission stage itself.

2 The sole grievance of the petitioners is that by the impugned notices dated 14.07.2015 issued under Section 7 of the Tamil Nadu Land Encroachment Act, 1905 ( for short " the Act"), the respondent had directed the petitioners to vacate the land in question for non-payment of tax under Section 3 of the Act. It is submitted that Section 7 of the Act contemplates a prior notice before passing an order under Section 6 of the Act, directing eviction from the alleged encroachment. The impugned notices have been issued by way of final order of eviction without affording an opportunity of hearing to the petitioners. The respondent is also not a competent officer to issue the impugned notices.

3 Be that as it may, from a perusal of the provisions of the Act, it is clear that Section 6 of the Act provides for removal/eviction from the unauthorised land occupied by a person. Before taking action under Section 6 of the Act, Section 7 contemplates a prior notice to a person in occupation. Thus, the persons in alleged occupation are entitled to show cause notice, even in case of encroachment on the Government land.

4 Accordingly, the impugned notices issued under Section 7 of the Act are deemed to be a show cause notice granting two weeks time to the petitioners to file their representation/explanation, raising their objections, if so advised. The question of jurisdiction may also be raised by the petitioners under the provisions of law. On such representations/explanations being filed by the petitioners, the authorities are at liberty to pass final orders, adverting to each and every objection/issue raised by the petitioners in their representations/explanations.

5 With the above observations and directions, these writ petitions are disposed of. Consequently, connected miscellaneous petitions are closed. No costs.

Sd/-  
Asst.Registrar (J)

/true copy/

Sub Asst. Registrar

To

The Executive Officer,  
Thiyagadurugam Town Panchayat,  
Thiyagadurugam,  
Kallakurichi Taluk,  
Villupuram District.

+1 cc to Government Pleader sr.41255  
+1 cc to Mr.S.Rajendiran Advocate sr.41090  
+1 cc to Mr.S.Rajendiran Advocate sr.41089

W.P. Nos.24396 & 24397 of 2015

msm(co)  
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