

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.08.2015

CORAM:

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

W.P. No.25216 of 2015 and M.P. Nos.1 & 2 of 2015

Thangavel

Petitioner

Vs.

1 The District Collector
Salem
Salem District

2 The Tahsildar
Sankari Taluk
Salem District

3 The Revenue Inspector
Thevoor
Sankari Taluk
Salem District

Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus calling for the records of the second respondent in proceedings in Na.Ka.No.3214/2015/K dated 05.08.2015, quash the same, consequently direct the respondents not to dispossess the petitioner from the land in S.No.96/15 to an extent of 40 cents situated at Koneripatti Agraharam Village, Sankari Taluk, Salem District without following the due process of law.

For petitioner Mr. M. Elango

For respondents Ms. A. Srijyanthi
Special Government Pleader

ORDER

(made by SATISH K. AGNIHOTRI, J.)

Mrs. A. Srijyanthi, learned Special Government Pleader, accepts 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 Assailing the legality and validity of the eviction notice dated 05.08.2015 issued by the second respondent under Section 6 of the Tamil Nadu Land Encroachment Act, 1905 (for short "the Act") and for a direction to the respondents not to dispossess him from the land in S.No.96/15 at Koneripatti Agraharam Village, Sankari Taluk, Salem District, the petitioner has come up with the instant writ petition.

3 According to the petitioner, he has been in possession and enjoyment of the land in question for over five decades. While so, all of a sudden, he has been served with a notice under Section 6 of the Act, requiring him to vacate the land in question within a period of seven days, failing which, he would be forcefully evicted and that the crops and buildings in the said land would be forfeited.

4 The main bone of contention of the learned counsel for the petitioner is that before the issuance of the impugned notice under Section 6 of the Act, the petitioner has not been issued with notice under Section 7, as mandated under the Act and as such, on that score itself, the impugned notice is liable to be set aside.

5 On a perusal of the impugned notice, it is eloquent that no notice under Section 7 of the Act was given to the petitioner, affording an opportunity to him, to put forth his case and as such, the impugned notice cannot be acted upon, without affording an opportunity of hearing to him.

6 In such view of the matter, we treat the impugned notice as show cause notice under the provisions of Section 7 of the Act and grant two weeks' time to the petitioner from today to put forth his case by way of representation/explanation before the authorities. The authorities are, thereafter, directed to examine the matter after proper verification and take consequential action, if need be. Such exercise shall be completed within a period of four weeks from the date of receipt of the petitioner's representation/explanation. Needless to state that each and every averment made by the petitioner in his representation/explanation is required to be adverted to, while passing a reasoned order.

7 The writ petition stands disposed of with the above direction and observation. Costs made easy. Connected Miscellaneous Petitions are closed.

Sd/-
Asst.Registrar(CSIII)

/true copy/

Sub Asst. Registrar

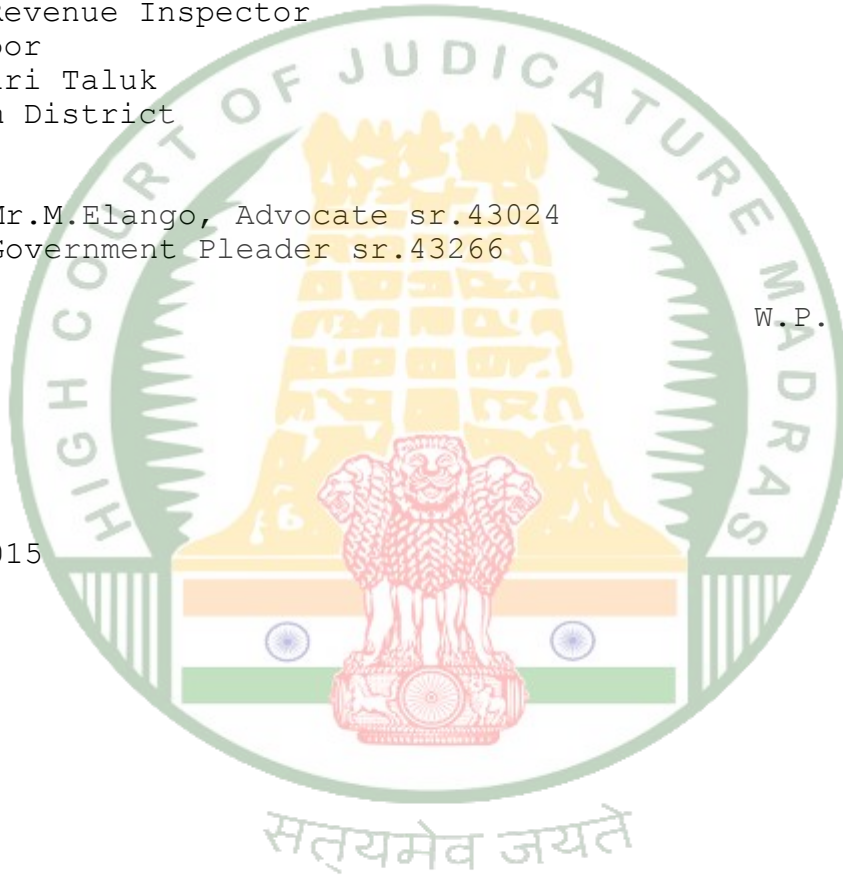
To

- 1 The District Collector
Salem
Salem District
- 2 The Tahsildar
Sankari Taluk
Salem District
- 3 The Revenue Inspector
Thevoor
Sankari Taluk
Salem District

+1 cc to Mr.M.Elango, Advocate sr.43024
+1 cc to Government Pleader sr.43266

W.P. No.25216 of 2015

nm(co)
aa01/09/2015



WEB COPY