

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.09.2015

CORAM:

THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI

AND

THE HON'BLE MR.JUSTICE K.K.SASIDHARAN

W.P. No.27437 of 2015 and M.P. No.1 of 2015

Sekar

Petitioner

vs.

- 1 The District Collector
Villupuram District
Villupuram
- 2 The Tahsildar
Kallakurichi Taluk
Villupuram District
- 3 The Executive Officer
Thiyagadurgam Town Panchayat
Villupuram District

Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorari to call for the records pertaining to the impugned notice purportedly issued under Section 7 and order Section 6 of the Tamil Nadu Land Encroachment Act, 1905 by the third respondent dated 14.07.2015 and 29.07.2015 respectively to quash the same as without jurisdiction.

For petitioner Mr. R. Kumaravel

For respondents Mrs. A. Srijayanthi
Special Government Pleader

ORDER

(made by SATISH K. AGNIHOTRI, J.)

Mrs. A. Srijayanthi, 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 This writ petition is filed assailing the legality and validity of the notice dated 14th July 2015 issued under Section 7 of the Tamil Nadu Land Encroachment Act (for short "the Act") and the consequential notice dated 29th July 2015 issued under Section 6 of the Act.

3 The grievance of the petitioner is that the notice under Section 6 of the Act calling upon him to vacate the property in question, i.e., the sheeted house in S.No.266/1 to an extent of 4.81.5, was issued without affording an opportunity of hearing. It is further stated that before issuance of such notice, one other notice under Section 7 of the Act was issued in respect of some other property and not the property stated therein. Yet another ground taken by the petitioner is that the third respondent, viz., the Executive Officer, Thiyagadurgam Town Panchayat, has no jurisdiction to initiate action for vacating the alleged encroachment under the provisions of the Act.

4 From a perusal of the materials placed before us, it is luculent that the survey number indicated in Section 7 notice is different from the one mentioned in Section 6 notice and as such, it can safely be held that Section 7 notice is not in respect of the land in question, which has been directed to be vacated within a period of five days, vide Section 6 notice dated 29th July 2015.

5 The learned Special Government Pleader submits that the notice dated 29th July 2007 purported to be issued under Section 6 of the Act may be treated as a show cause notice, affording an opportunity of hearing to the petitioner to submit his reply/representation and thereafter, a decision may be taken on merits and in accordance with law.

6 In view of the foregoing, we are not inclined to make any observation qua merits of the case. However, liberty is reserved to the petitioner to submit his reply/representation to Section 6 notice deemed to have been issued under Section 7 in the form of a show cause notice, placing his explanation before the authorities. It is open to the petitioner to question the jurisdiction of the authority who had issued the notice, if so advised, under the provisions of law. On receipt of such reply/representation from the petitioner, the authorities are required to deal with each and every averment made therein, before passing final orders and before taking consequential action of removal of encroachment, if any, from the Government land. The entire exercise shall be carried out within a period of six weeks from the date of receipt of a copy of this order.

7 The writ petition stands disposed of with the aforesaid observations and directions. Costs made easy. Connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS IV)

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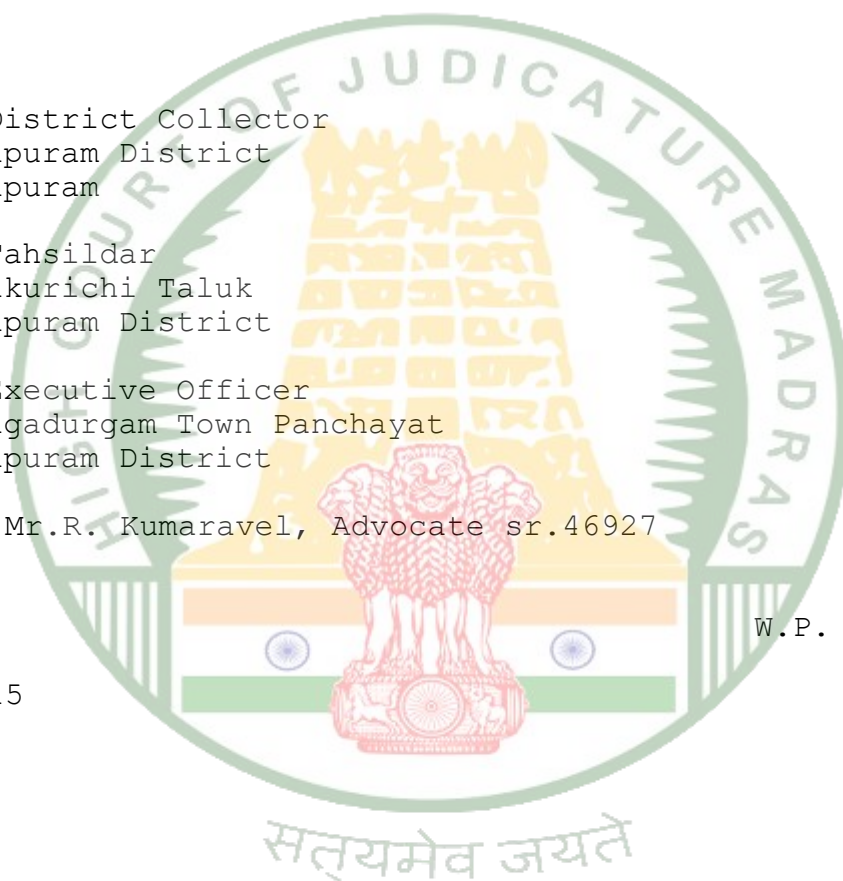
Sub Assistant Registrar

cad
To

- 1 The District Collector
Villupuram District
Villupuram
 - 2 The Tahsildar
Kallakurichi Taluk
Villupuram District
 - 3 The Executive Officer
Thiyagadurgam Town Panchayat
Villupuram District
- + 1 cc to Mr.R. Kumaravel, Advocate sr.46927

NM(CO)
Eu 24.09.15

W.P. No.27437 of 2015



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