IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.09.2015

CORAM:

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI

AND

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

W.P. No.30723 of 2015 and M.P. No.1 of 2015

R. Gunasekaran — Petitioner

vs.

1 The Tahsildar
Anthiyur Taluk
Anthiyur Post
Erode District

2 The Land Revenue Inspector
Anthiyur
Anthiyur Post
Erode District — Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorari, calling for the records relating to the impugned order passed by the first respondent in his proceedings nil. dated 23.09.2015 under Section 6 of the Tamil Nadu Land Encroachment Act, 1905 and quash the same as illegal and without jurisdiction.

For petitioner — Mr. B. Saravanan
For respondents — Mr.P.S. Sivashanmugasundaram
Special Government Pleader

ORDER

WEB COPY

(delivered by SATISH K. AGNIHOTRI, J.)

Mr. P.S. Sivashanmugasundaram, 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 The petitioner has come up with the instant writ petition, assailing the legality and validity of the notice dated the 23rd instant issued by the first respondent under Section 6 of the Tamil

https://hcservices.ecourts.gov.in/hcservices/

Nadu Land Encroachment Act, 1905 (for short "the Act").

3 The facts in nutshell, leading to the filing of the instant writ petition are that on the 9th instant, on the ground that the petitioner has been in possession and enjoyment of the Government land without permission, he was issued with a notice under Section 7 of the Act to show cause as to why assessment shall not be levied under Section 5 of the Act at the rate mentioned under Section 3(ii) of the Act and also as to why he should not be evicted from the land in question. Pursuant thereto, the petitioner submitted his reply on the 18th instant. Eventually, on the 23rd instant, the first respondent issued notice under Section 6 of the Act, directing the petitioner to vacate the property in question within seven days and also to remove all the standing crops, buildings or structures left in the land. It was further observed therein that failure to vacate the land will result in eviction, besides forfeiture of the standing crops, building or other structures. Feeling aggrieved by the said notice issued under Section 6 of the Act, the present writ petition for the aforestated relief.

4 The learned counsel for the petitioner submits that the petitioner's reply, pursuant to the notice issued under Section 7 of the Act, was not considered properly and the impugned notice has been passed in a casual and stereo-typed manner.

5 Be that as it may, it is not that the petitioner does not have any other remedy, except challenging the impugned notice by filing this writ petition. The impugned notice issued under Section 6 of the Act, is appealable under Section 10 of the Act. As such, there is no reason to bypass or sidestep the appeal jurisdiction to invoke the extra-ordinary jurisdiction of this Court.

cad

6 We, accordingly, dismiss the writ petition, reserving liberty to the petitioner to take recourse to the appellate forum, if so advised. For a period of two weeks from today, there shall be an order of status quo as obtained today, in respect of the property in question, to enable the petitioner to prefer an appeal as against the impugned notice, if so advised. Costs made easy. Connected Miscellaneous Petition is closed.

WEB COPY

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

https://hcservices.ecourts.gov.in/hcservices/

To,

1 The Tahsildar
Anthiyur Taluk
Anthiyur Post
Erode District

2 The Land Revenue Inspector
Anthiyur
Anthiyur Post
Erode District

+1 cc to M/S.B.Saravanan, Advocate sr.52916
+1 cc to Government Pleader, HighCourt Madras sr.52886

W.P. No.30723 of 2015

aa6/10/2015

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/