

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.11.2015

CORAM:

THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI
AND
THE HON'BLE DR.JUSTICE P. DEVADASS

W.P. Nos.35706 to 35711 of 2015 and M.P. No.1 of 2015

Loganathan	...Petitioner in WP No.35706 of 2015
Pichumani Nadar	... Petitioner in Wp.No.35707 of 2015
Mahabub sharif	... Petitioner in WP.No.35708 of 2015
Shabera Begum	...Petitioner in WP.No.35709 of 2015
R.Rajesh Kumar	...Petitioner in WP.No.35710 of 2015
Nazira Bi	...Petitioner in WP.No.35711 of 2015

vs.

1 The District Collector
Tiruvallur District
Tiruvallur

2 The Revenue Divisional Officer
Tiruvallur Division
Tiruvallur

3 The Tahsildar
Tiruvallur Taluk
Tiruvallur

Respondents in all the WPs

Writ Petitions filed under Article 226 of the Constitution of India seeking a writ of mandamus forbearing the respondents from interfering with the petitioners' premises bearing Door Nos.1/498, 2/599, 2/826, 2/602, 119/2 Bazaar Street, Perambakkam, Tiruvallur Taluk and District and Door No.2/830, Thiruvallur Road, Perambakkam, Tiruvallur Taluk and District respectively without any authority of law, unless the petitioners' legal notices dated 03.10.2015 are disposed of in accordance with law.

For petitioner in
all the WPs :Mr. K. Balaji

For respondents in :Mrs. A. Srijayanthi
all the WPs Special Government Pleader

COMMON ORDER

(delivered by SATISH K. AGNIHOTRI, J.)

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

2 Alleging that the petitioners are in unauthorised occupation of the Government lands, the third respondent, viz., the Tahsildar, Tiruvallur, issued notices dated 18 September 2015 under Section 7 of the Tamil Nadu Land Encroachment Act, 1905 (for short "the Act") to the petitioners. Pursuant thereto, the petitioners have filed the instant writ petitions seeking a direction to the respondents forbearing them from taking any action, unless their legal notices dated 03 October 2015 filed in response to the notices issued under Section 7, are disposed of, in accordance with law.

3 Section 7 of the Act contemplates a prior notice before a notice is issued under Section 6 of the Act to the person unauthorisedly occupying the land for summary eviction, forfeiture of crops, etc. In the case on hand, as aforestated, notices under Section 7 of the Act were issued on 18 September 2015 stating that the petitioners are unauthorisedly enjoying the lands belonging to the Government without making any payment of kist as prescribed under Section 3 of the Act and as such, they are required to vacate the premises.

4 Seemingly, the petitioners have sought legal advice pursuant to the aforesaid notices issued to them. The learned advocate, without appreciating the rudimentary difference between a reply and a legal notice, has addressed legal notices dated 03 October 2015, calling upon the officer concerned not to act on the notices in question, failing which a threat was made to take appropriate action holding him responsible for all costs

and incidental consequences.

5 The learned Special Government Pleader submits that the notices issued under Section 7 of the Act admittedly provide an opportunity to the alleged encroachers to submit their explanations. Such being the case, there was no occasion whatsoever for the petitioners' counsel to address legal notices to the Government authority threatening of consequences, which was neither necessary nor required, in view of the given facts of the case.

6 We have heard the learned counsel for the parties and examined the facts at length.

7 Indisputably, a notice under Section 7 of the Act requires the person in possession of the Government land unauthorisedly, to remove the encroachment. However, it does not mean that the purpose of Section 7 is defeated. Section 7 of the Act clearly contemplates prior notice before consequential action is taken under Section 6 of the Act. In such a case, even if the petitioners feel that their possession is authorised and in accordance with law, the proper course for them would be to file a reply or objection to the notices issued under Section 7 and not to address legal notices in the manner it has been done in the cases on hand. The legal notices, in fact, threaten the officer of consequences in the event, he discharges his duties, which is not permissible. Addressing of such legal notices to authorities threatening them of consequences in the discharge of their duties, especially when there is no necessity at all, is deprecatory, for, legal notices are not meant to curb the authority of the Government official in the discharge of his duties.

8 However, having regard to the fact situation, we grant two weeks' time to the petitioners to file reply/objection, if any and the authorities are obliged to take a decision thereon and take consequential action, if need be, adverting to all the objections/contentions raised in the reply.

9 The writ petitions stand disposed of with the above observations. Costs made easy. Connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar (CS-III)

True Copy

Sub Assistant Registrar

To

1. District Collector
Tiruvallur District
Tiruvallur
- 2 The Revenue Divisional Officer
Tiruvallur Division
Tiruvallur
- 3 The Tahsildar
Tiruvallur Taluk
Tiruvallur

+3cc to Mr.K.Balaji, Advocate sr.30611

Common Order in
W.P. Nos.35706 to 35711 of 2015

gj[co]
srg 27/11/2015

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