

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.12.2015

CORAM:

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

W.P. No.39253 of 2015 and M.P. Nos. 1 and 2 of 2015

S.P.T. Lodge
represented by its Proprietor S.P.T. Charles
Appasamy Pillai Thottam
Madhakulam
Velankanni
....Petitioner

vs.

- 1 The District Collector
Nagapattinam District
Nagapattinam 611 001
- 2 The Tahsildar
Kizh Velur Taluk
Kizh Velur
Nagapattinam District
- 3 The Revenue Divisional Officer
RDO Office
Nagore Main Road
Nagapattinam 611 001
...Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus to call for the records in Na.Ka.3/3581/2015 dated 27.06.2015 on the file of the second respondent and quash the same as illegal, irregular and without jurisdiction and further direct the respondents not to interfere with the petitioner's enjoyment of the property situated at S.No.14/7A.

For petitioner Mr. V. Lakshmi Narayanan

For respondents Mr. P.S. Sivashanmugasundaram
Special Government Pleader

ORDER

(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 for the parties, this writ petition is taken up for final disposal, at the admission stage itself.

2 This writ petition is filed assailing the notice dated 27 June 2015 passed by the second respondent under Section 6 of the Tamil Nadu Land Encroachment Act, 1905 (for short "the Act").

3 The learned counsel for the petitioner submits that without appreciating the purport of the order dated 08 July 2015 passed by a Division Bench of this Court in Subash Chandra Bose Podhu Nala Sangam vs. State of Tamil represented by its Secretary to the Government, Revenue Department, Chennai - 9 and 9 others, wherein, there is a clear direction to proceed in accordance with law, the second respondent has issued the impugned notice under Section 6 of the Act, calling upon the petitioner to remove the alleged encroachment, without taking recourse to Section 7 of the Act, which provides for an opportunity of hearing to the petitioner. Thus, the impugned notice is unsustainable and accordingly, liable to be quashed.

4 The learned Special Government Pleader, in all fairness, submits that as the impugned notice does not indicate issuance of any prior notice, the impugned notice be treated as show cause notice under the provisions of Section 7 of the Act, affording an opportunity to the petitioner, with liberty to the authorities to pass a fresh order with consequential action, if need be.

5 In view of the above submission of the learned Special Government Pleader, it is ordered accordingly. The petitioner is at liberty to make a representation, if so advised, within a period of two weeks, from the date of receipt of a copy of this order.

The writ petition stands disposed of with the above observations, sans costs. Connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

To

- 1 The District Collector
Nagapattinam District
Nagapattinam 611 001
- 2 The Tahsildar
Kizh Velur Taluk
Kizh Velur
Nagapattinam District
- 3 The Revenue Divisional Officer
RDO Office
Nagore Main Road
Nagapattinam 611 001.

+1cc to Mr.V.Raghavachari, Advocate Sr.67473
+1cc to The Government Pleader Sr.67826

सत्यमेव जयते

W.P. No.39253 of 2015

vs[co]
srg 28/12/2015

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