

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.03.2015

CORAM:

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI

and

THE HON'BLE MR. JUSTICE M. VENUGOPAL

W.P. No.7039 of 2015 and M.P. No.1 of 2015

Taneja Aerospace and Aviation Ltd.
Represented by its Managing Director
Thally Road
Belagondapally
Hosur, Krishnagiri District

Petitioner

Vs.

- 1 The District Collector
Krishnagiri District
- 2 The Zonal Deputy Tahsildar
Denkanikotta
Krishnagiri District

Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorari to call for the records on the file of the second respondent in Proceedings Na.Ka.73/2015/B1 dated 18.02.2015 and quash the same as illegal, incompetent and without jurisdiction.

For petitioner Mrs. R. Poornima
for M/s. T. Panchatsaram
For respondents Mr. P.S. Sivashanmugasundaram
Special Government Pleader

ORDER

(Order of the Court was made by SATISH K. AGNIHOTRI, J.)

Mr. P.S. Sivashanmugasundaram, learned Special Government Pleader, takes 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 challenging the notice issued under Section 7 of the Land Encroachment Act, 1905, (for short "the Act") whereby and whereunder, the petitioner has been called upon to explain as to why he should not be evicted on the ground that his

occupation is in the nature of encroachment.

3 The learned counsel for the petitioner makes submissions on several grounds, including that a lease was granted to the petitioner, the renewal of which is pending consideration and as such, the petitioner cannot be called as an encroacher.

4 Be that as it may, since the notice issued under Section 7 of the Act is in the nature of a show cause notice, in response to which, the petitioner has full liberty to submit his case by way of explanation/reply, at this stage, no cause of action has arisen to invoke the jurisdiction of this Court under Article 226 of the Constitution of India and as such, we are not inclined to interfere with the impugned order.

5 However, we reserve liberty to the petitioner to put forward his case before the authorities in reply and the authorities, in turn, are directed to consider each and every issue / ground to be raised by the petitioner in his explanation/reply, before passing orders under Section 6 of the Act. Needless to state that no action for eviction can be taken before passing the appropriate formal order under Section 6 of the Act. The time of 15 days granted to the petitioner in the impugned order to submit explanation/reply has come to an end. Therefore, we grant further one week's time from today, to the petitioner, to submit his explanation/reply, if so advised.

6 The writ petition stands disposed of with the above observations. No costs. Connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

cad
To

- 1 The District Collector
Krishnagiri District
- 2 The Zonal Deputy Tahsildar
Denkanikotta
Krishnagiri District.

1 cc to M/s. T. Panchatsaram ,Advocate, SR.No.14047/15

W.P. No.7039 of 2015

kgk (co) pmk.25.3.2015