

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20-01-2015

CORAM

THE HONOURABLE MR.SANJAY KISHAN KAUL, CHIEF JUSTICE

AND

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

WRIT PETITION No.23411 of 2007

and

M.P.No.1 of 2007

1.S.Syed
2.N.Somasundaram
3.Venkatesan
4.Vadivambal
5.M.Jahangeer
6.M.Geetha
7.S.Dharmichand
8.M.Rajalingam
9.I.Kings Kennedy
10.R.Ranjan
11.Anandraj
12.Mohanammal
13.Shabirabee
14.S.Mohammed Sherif
15.A.Sekar .. Petitioners

1.The Government of Tamil Nadu
Rep. By its Secretary
Revenue Department
Fort St. George, Secretariat
Chennai 9
2.The District Collector
Thiruvallur District
3.The Thasildhar
Poonamallee Taluk
Thiruvallur District
4.The Revenue Inspector
Thiruninravur, Thiruvallur District .. Respondents

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorari calling for the records of the fourth respondent relating to his notice dated 28.3.2007 issued under Section 5 of the Tamil Nadu Land Encroachment Act, 1905, (Act 3 of 1905) to the petitioners relating to Survey No.410, Thanduri Village, and quashing the same.

For Petitioners : No appearance
For Respondents : Mr.S.T.S.Moorthy
Government Pleader
for RR1 to 4

ORDER

(Order of the Court was made by THE HON'BLE CHIEF JUSTICE)

None appears for the petitioners.

2.We perused the record and heard the learned Government Pleader for respondents.

3.It appears that respondent No.4 issued notice under Section 5 of the Tamil Nadu Land Encroachment Act, 1905, on account of proceedings initiated in Writ Petition No.11711 of 2002 where orders were passed on 4.3.2007, directing the respondents therein to take steps for removal of encroachment in Survey No.410, Thanduri Village. The petitioners before us, did not respond to the show cause notice, but straightaway approached this Court by filing this writ petition assailing the show cause notice. There are only two grounds assailing the show cause notice viz. (1) The fourth respondent had no authority to issue a notice under Section 5 of the said Act and (2) There was practically no effective time granted to file a reply, and in the result, the principles of natural justice were violated.

4.The matter has been pending for the last more than seven years with interim stay operating. The result is that the proceedings initiated under the said Act, have remained in abeyance.

5.We are, thus, of the view that this petition can be disposed of in terms of the following directions:

(i) The respondents 1 to 3 to look into the issue of competency of the fourth respondent to issue the notice concerned and if the submission of the petitioners is correct, a fresh notice in accordance with law, can be issued.

(ii) In case a notice has already been issued by the competent authority, a reminder notice be sent giving adequate time to the petitioners to respond to the notice of not less than two weeks.

(iii) Thereafter, the proceedings under Section 5 or under any other provisions of the said Act would proceed in accordance with law.

6.The writ petition accordingly, stands disposed of in the terms aforesaid. No costs. Consequently, interim order stands vacated and MP is closed.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

nsv

To:

- 1.The Secretary to Government
Revenue Department
Fort St. George, Secretariat
Chennai 9
- 2.The District Collector
Thiruvallur District
- 3.The Thasildhar
Poonamallee Taluk
Thiruvallur District
- 4.The Revenue Inspector
Thiruninravur, Thiruvallur District

1 cc to Government Pleader, Sr. 2795

W.P.No.23411 of 2007

SV (CO)
kk 3/2

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