

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 5.7.2016

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

W.P.No.23228 of 2016

and

W.M.P.No.19916 of 2016

1 Mrs.Thamilarasi
2 Mr.Muthusamy
3 Mrs.Sellammal
4 Mr.Selvam Petitioners

Versus

1 The District Collector
Office of the District Collector
Erode District
2 The Assistant Executive Engineer
WRD Delta Sub Division
Keezhbhavani
Erode-2
3 The Assistant Engineer
PWD/WRD Irrigation Section
Modakurichi 638 104 Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorari calling for the records of the 2nd respondent dated 29.06.2016 and quash the same as arbitrary and contrary to law.

For petitioners : Mr.T.Nirmaleswar

For Respondents : Mr.P.S.Sivashanmugasundaram,
Special Government Pleader

ORDER

(Order of the court was made by HULUVADI G.RAMESH, J.)

Heard the learned counsel appearing for the petitioner and the learned Special Government Pleader, who takes notice on behalf of the respondents.

2. The writ petition has been filed seeking issuance of a writ of certiorari to call for the records of the 2nd respondent dated 29.06.2016 and quash the same as arbitrary and contrary to law.

3. It is the case of the petitioners that they are residing in the premises, wherefrom they are sought to be evicted, for the past 35 to 40 years and they are assessed to property tax regularly, they hold ration card and they are paying electricity charges. It seems that they had been issued with a show cause notice for eviction on 21.6.2016 by the third respondent under section 7 of the Encroachment Act, 1905 for which the petitioners had submitted their reply on 23.6.2016 enclosing the relevant documents, but, to their shock and surprise, the second respondent had sent an order of eviction on 29.6.2016 under Section 6 of the Land Encroachment Act, 1905 giving 7 days time to evict the property. Aggrieved by the same, the present writ petition has been filed.

4. Regarding the removal of encroachment, the petitioners are said to have submitted a detailed representation to the District Collector and the grievance of the petitioners is that they should have been given one month's notice, but, only 7 days notice has been given.

5. Considering the above circumstances, this court directs that the representations themselves submitted by the petitioners may be treated as Appeals under section 10A of the Land Encroachment Act, 1905 and be disposed of within two months from the date of receipt of copy of this order, after hearing the petitioners and till then, status quo shall be maintained. The writ petition is disposed of accordingly. No costs. The connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

ssk.

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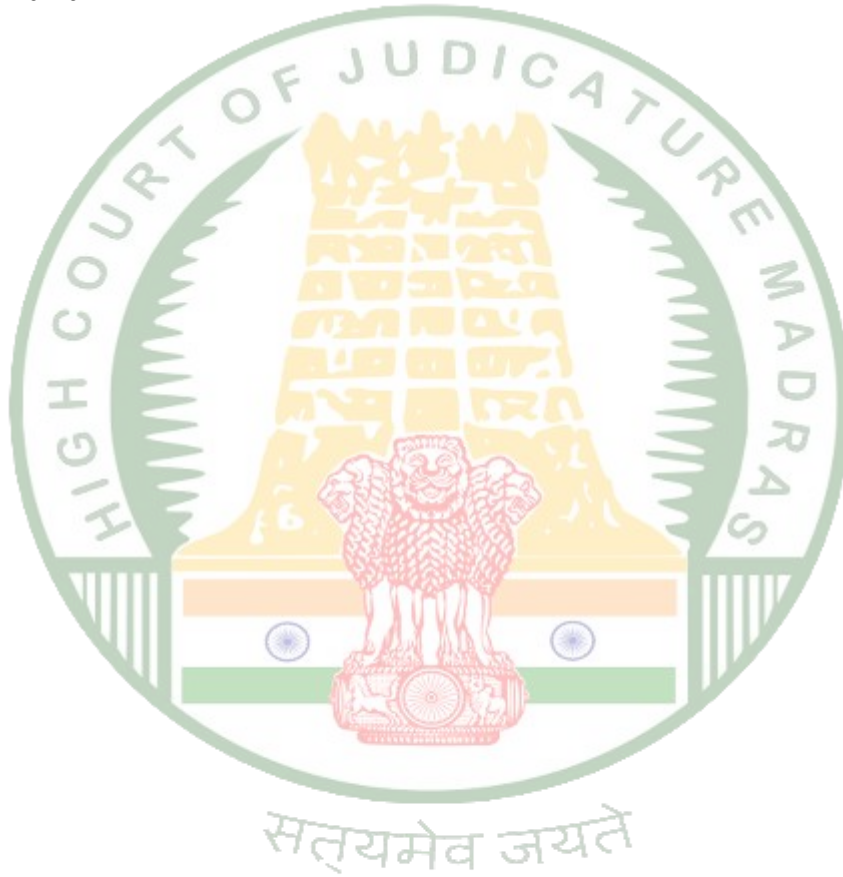
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1 cc to M/s.Nirmaleswar.T. Advocate, sr.37611
1 cc to Government Pleader, sr.37967

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