

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.02.2016

CORAM:

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI
and

THE HON'BLE MR. JUSTICE M. VENUGOPAL

W.P. Nos.4942 and 4943 of 2016 and W.M.P. Nos.4284 and 4285 of 2016

Munusamy

Petitioner in WP No.4942 of 2016

Krishnan

Petitioner in WP No.4943 of 2016

Vs.

1 The District Collector of Krishnagiri
Collectorate, Krishnagiri

2 The Tahsildar of Krishnagiri
Taluk Office, Krishnagiri

Respondents in both the WPs

Writ Petitions filed under Article 226 of the Constitution of India seeking a writ of certiorari, calling for the records relating to the notices of the second respondent, viz., the Tahsildar, Krishnagiri, dated 02.12.2015 under Section 6 of the Tamil Nadu Land Encroachment Act in respect of an extent of 0.02.0 hectares Oni Poramboke in S.No.256, Balinayanapalli Village, Krishnagiri Taluk and District.

For petitioner in Mr. V. Nicholas
both the WPs

For respondents in Mrs. A. Srijayanthi
both 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 The instant writ petitions are filed calling in question, the legality and validity of the notices issued under Section 6 of the Tamil Nadu Land Encroachment Act, 1905 (for short "the Act"), whereby and whereunder, the petitioners have been called upon to vacate the land in question and remove the crops or other products raised thereon and also any building erected thereon within seven days. In default, the petitioners have been informed that they

would be evicted forthwith and the crops/other products/buildings raised thereon are liable to forfeiture.

3 The sole ground raised by the petitioners is that before issuance of the impugned notices under Section 6 of the Act, they are entitled to a notice under the provisions of Section 7 of the Act, to put forth their case and also the authorities are required to conduct an enquiry and find out whether there is any encroachment on the land in question. The petitioners have not made any encroachments and rather, they are in legal ownership of the land in question.

4 On a perusal of the impugned notices as well as other documents, it is noticed that there is neither any reference to any notice given under Section 7 of the Act prior to issuance of the impugned notices under Section 6 of the Act nor is there any indication that any enquiry has been conducted by the Tahsildar. The petitioners are entitled to a show cause notice, as contemplated under Section 7 of the Act to put forth their case, before a decision is taken, on examination, to direct to evicting the established unauthorised construction.

5 In such view of the matter, the impugned notices be treated as notices issued under Section 7 of the Act, enabling the petitioners to make a representation/explanation within a period of two weeks from today. Needless to state that the petitioners cannot be evicted, till a proper order is passed under Section 6 of the Act, on consideration of their representation/explanation, if any, within a period of two weeks.

The writ petitions stand disposed of with the aforestated observations. Costs made easy. Connected W.M.P.s are closed.

Sd/-

Asst.Registrar (J)

/true copy/

Sub Asst. Registrar

cad

To

1 The District Collector of Krishnagiri
Collectorate, Krishnagiri

2 The Tahsildar of Krishnagiri
Taluk Office, Krishnagiri

1 cc to M/s.V. Nicholas, Advocte, Sr. 8514

1 cc to Government Pleader, Sr. 9115

W.P. Nos.4942 and 4943 of 2016

SNS (CO)

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