



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.01.2016

CORAM :

**THE HONOURABLE MR. JUSTICE V. RAMASUBRAMANIAN**

and

**THE HONOURABLE MR. JUSTICE N. KIRUBAKARAN**

Writ Petition (MD) No.1088 of 2016

and

W.M.P (MD) Nos.912 and 913 of 2016

Ravikumar

... Petitioner

Vs.

The Tahsildar,  
Thiruverumbar Taluk,  
Trichy District.

... Respondent

Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, calling for records relating to the impugned order of the respondent dated 09.01.2016 and quash the same as illegal.

For Petitioner

: Mr.N.Mohideen Basha

For Respondent

: Mr.M.Alagadevan,

Special Government Pleader.

#### ORDER

(Order of the Court was made by **V. RAMASUBRAMANIAN, J.**)

The petitioner has come up with the above writ petition challenging a notice issued under Section 6 of the Tamil Nadu Land Encroachment Act, 1905.

2.Heard Mr.N.Mohideen Basha, learned counsel for the petitioner. Mr.M.Alagadevan, learned Special Government Pleader takes notice for the respondent.

3.There is no dispute about the fact that the petitioner is not the owner of the property. The property is of the extent of about 36 cents. It is described as Vandipathai (Cart Track Poramboke). The petitioner appears to have obtained an exparte decree of permanent injunction restraining the State from dispossessing him except by due process of law. As a matter of fact, the said suit is not maintainable in view of the provisions of Tamil Nadu Act 3 of 1905. Therefore, he cannot take refuge under the exparte decree.

4.The main grievance of Mr.N.Mohideen Basha, learned counsel for the petitioner is that the procedure prescribed by the Act has not been followed. A notice under Section 7 ought to be issued first and objections called. Thereafter, a notice under Section 6 should be published.

5.It is true that such a procedure is prescribed by the Act. But the procedure is to ensure that the petitioner has fair opportunity to oppose the eviction.



6.The above opportunity has already been availed very well by the petitioner by filing a civil suit and obtaining an exparte decree of permanent injunction.

7.Procedure is a handmaid of law and cannot become a mistress. The petitioner is already the owner of a land of a larger extent of about 5 acres. He seems to have annexed the Government land in question. Therefore, we do not find it just to exercise the equitable jurisdiction under Article 226 of the Constitution of India to entertain the writ petition. Hence, it is dismissed. No costs. Consequently, W.M.P(MD) Nos.912 and 913 of 2016 are closed.

Sd/-

Assistant Registrar (AS)

/True copy/

Sub Assistant Registrar

To  
The Tahsildar,  
Thiruverumbar Taluk,  
Trichy District.

+1 CC to the Special Government Pleader, SR No.3471

Writ Petition (MD) No.1088 of 2016  
and  
W.M.P (MD) Nos.912 and 913 of 2016  
20.01.2016

sms

SH/GSV-AN:09.02.2016:2P/3C