



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.07.2016

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

and

THE HONOURABLE MR.JUSTICE B.GOKULDAS

W.P (MD) No.13206 of 2016

and

W.M.P. (MD) .Nos.9946 and 9947 of 2016

P.Sundarasekaran

..Petitioner

Vs.

1.The Secretary to Government,
Department of Revenue,
Fort.St.George, Chennai 9.

2.The Commissioner of Land Administration,
Office of the Commissioner of Land Administration,
Ezhilagam, Chepauk, Chennai 5.

3.The District Collector,
Tuticorin District, Tuticorin.

4.The District Revenue Officer,
Office of the District Revenue Office,
Tuticorin District.

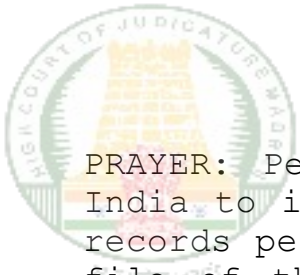
5.The Revenue Divisional Officer,
Office of the Revenue Divisional Office,
Tiruchendur, Tuticorin District.

6.The Tahsildar,
Tiruchendur Taluk, Tuticorin District.

7.The Executive Engineer [PWD/WRO],
Thamarabarani Basin Division,
Public Works Department,
Tirunelveli 2.

8.The Assistant Executive Engineer [PWD/WRO],
Lower Thamarabarani Basin Sub-Division,
Public Works Department, Srivaikundam,
Tuticorin District.

9.The Junior Engineer, PWD/WRO,
Thenkal Section, Thenthiruperai, Tiruchendur Taluk,
Tiruchendur Taluk, Tuticorin District. ..Respondents



PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records pertaining to the impugned notice dated 08.07.2016, on the file of the ninth respondent and quash the same as illegal and consequently for a direction, directing the respondents to grant land assignment patta to the petitioner for the property to an extent of 0.75.0 Hectares, situated in Survey Nos.842/1 and 843/2, Thirukkalur Village, Tiruchendur Taluk, Tuticorin District in accordance with the RSO 15 of the Revenue Standing Orders.

For petitioner : Mr.S.Rajasekar
For respondents : Mr.M.Govindan
Special Government Pleader

O R D E R

[Order of the Court was made by K.K.SASIDHARAN, J.]

By consent, the Writ Petition is taken up for final disposal, during the time of admission.

2. Heard the learned counsel for the petitioner and the learned Special Government Pleader appearing on behalf of the respondents.

3. The challenge in this Writ Petition is to the notice dated 08.07.2016, whereby and whereunder, the ninth respondent called upon the petitioner to show cause as to why he should not be evicted from the schedule property in accordance with the provisions of the Tamil Nadu Land Encroachment Act, 1905, [for brevity, "the Act"].

4. The ninth respondent initiated the proceedings under the Act, on allegation that the petitioner is in occupation of the Government land. Even according to the petitioner, he has already given explanation to the statutory notice issued by the ninth respondent under Section 7 of the Act. There is a procedure contemplated under the Act, mandating that the authorized officer shall pass an order under Section 6 of the Act, before actually evicting the encroacher. The said stage has not arisen so far. The authority has only issued a notice. The petitioner has already given explanation for the same. It is for the authority to consider the said explanation in accordance with law and on its own merits.

5. We direct the ninth respondent to pass an order under Section 6 of the Act, after considering the explanation submitted by the petitioner. Status-quo as-on-today shall be maintained till the order is passed under Section 6 of the Act, by the ninth respondent.



6. The Writ Petition is disposed of with the above direction. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(Records)

/True copy/

Sub Assistant Registrar(CS)

To:

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Thenkal Section, Thenthiruperai, Tiruchendur Taluk,
Tiruchendur Taluk, Tuticorin District.

+1cc to Mr.T.Lajapathi Roy, Advocate in SR.40362

+1cc to the Special Government Pleader in SR.40188

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