



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 16.09.2016

CORAM

THE HON'BLE Mr. JUSTICE M.SATHYANARAYANAN

AND

THE HON'BLE Ms. JUSTICE V.M.VELUMANI

W.P. (MD) No.15499 of 2016

&

W.M.P. (MD) No.11395 of 2016

Periyathambi, S/o.Mallaiya

.. Petitioner

Vs.

1.The District Collector,
Sivagangai District,
Sivagangai.

2.The Thasildar,
Devakottai,
Sivagangai District.

3.The Zonal Thasildar,
Devakottai,
Sivagangai District.

4.The Revenue Inspector,
Kannankudi,
Devakottai Taluk,
Sivagangai District.

5.The Village Administrative Officer,
40, Kandiyur Group,
Devakottai Taluk,
I/c.47, Sadayamangalam,
Sivagangai District.

.. Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, to call for the records relating to the impugned notice dated 19.07.2016, issued by the respondents 3 to 5 and quash the same.

For Petitioner : Mr.G.Mohankumar

For Respondents : Mr.VR.Shanmuganathan
Special Government Pleader

**ORDER**

(Order of the Court was made by M.SATHYANARAYANAN, J.)

The respondents 3 to 5, alleging encroachment of the land admeasuring to an extent of 1 Hectares and 10 Ares, classified as Government Meichal Poramboke, situated at No.47, Sadayamangalam, Menappur, had purportedly issued the impugned notice under Section 7 of the Tamil Nadu Land Encroachment Act, 1905 [hereinafter referred to as "the Act"] and challenging the said notice, this writ petition has been filed.

2. The learned counsel for the petitioner would submit that though in the top portion of the impugned notice, a correction has been made altering Section 5 into Section 7 of the Act, in the body of the said notice, it has been stated that why action should not be taken against the petitioner under Section 5 of the Act. Further, in the impugned notice, there is no date and time of enquiry has been furnished and therefore, the petitioner is not able to avail alternate remedy under Section 10 of the said Act.

3. Per contra, Mr.VR.Shanumuganathan, learned Special Government Pleader, who accepts notice for the respondents, would submit that it is made clear that notice for removal of encroachment has been given. Hence, it is for the petitioner to approach the Office of the respondents to ascertain the date and time of enquiry.

4. This Court has considered the rival submissions of the learned counsel appearing for the parties.

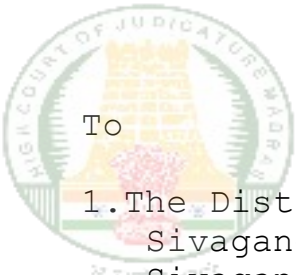
5. A perusal of the impugned notice would disclose that Section 5 has been altered and Section 7 has been inserted, but in the body of the said notice, it is stated only Section 5. That apart, date and time of enquiry does not find place. Hence, it warrants interference.

6. In the result, the writ petition is partly allowed and the impugned notice of the respondents 3 to 5 is set aside and the matter is remanded back to the second respondent, who shall proceed against the petitioner with regard to removal of alleged encroachment strictly in accordance with law and pass appropriate orders as early as possible. No costs. Consequently, W.P.M.P. (MD)No.11395 of 2016 is closed.

Sd/-

Assistant Registrar(AE)

/True copy/



To

1.The District Collector,
Sivagangai District,
Sivagangai.

2.The Thasildar,
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Sivagangai District.

5.The Village Administrative Officer,
40, Kandiyur Group,
Devakottai Taluk,
I/c.47, Sadayamangalam,
Sivagangai District.

+1 cc to M/s.R.Vijayakumar, Advocate in SR.No.53040

+1 cc to The Special Government Pleader in SR.No. 53197

smn2

CSL/SS-2/26.09.2016: 3P/8C

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&

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