



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.12.2016

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE A.SELVAM
and
THE HONOURABLE MR.JUSTICE P.KALAIYARASAN

W.P (MD) No.23941 of 2016
and
W.M.P (MD) No.17273 of 2016

S.Krishnasamy .. Petitioner

Vs.

1.The District Collector, Tirunelveli District,
Tirunelveli.

2.The Tahsildar, Thiruvengadam Taluk,
Tirunelveli District.

3.The Revenue Inspector,
Thiruvengadam Taluk,
Tirunelveli District.

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari calling for the records pertaining to the impugned notice with ref.No.Na:Ka.610/2016/A3 dated 06.09.2016 issued by the second respondent and quash the same as void and illegal.

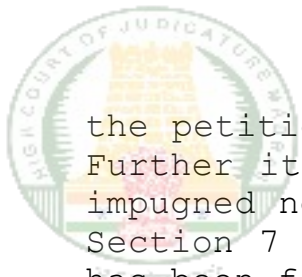
For Petitioner : Mr.F.X.Eugene
For Respondents : Mr.D.Muruganandam,
Additional Government Pleader.

ORDER

[Order of the Court was made by **A.SELVAM, J.**]

This writ petition has been filed under Article 226 of the Constitution of India praying to call for records relating to the notice dated 06.09.2016 issued by the second respondent in No.Na:Ka.610/2016/A3 and quash the same by way of issuing a writ of certiorari.

2.It is averred in the petition that the second respondent has issued the impugned notice under Section 6 of the Tamil Nadu Encroachment Act, 1905 on 06.09.2016, wherein it is stated that



the petitioner has encroached a portion of Natham Survey No.17/11. Further it is averred in the petition that before issuance of the impugned notice, no notice has been issued to the petitioner under Section 7 of the said Act and therefore the present writ petition has been filed for getting the relief sought therein.

WEB COPY

3. On the basis of the averments made in the petition, the learned Additional Government Pleader appearing for the respondents has been directed to submit the concerned file and accordingly the same has been submitted, wherein a copy of notice issued under Section 7 of the said Act is not available. The learned Additional Government Pleader has also fairly conceded that prior to issuance of the impugned notice, no notice has been given under Section 7 of the said Act.

4. It is a settled law that before invoking Section 6 of the said Act a pre-notice under Section 7 of the said Act is mandatory. In the instant case, such notice has not been given and therefore the impugned notice dated 06.09.2016 is liable to be quashed.

5. In fine, this writ petition is allowed without costs and the impugned notice dated 06.09.2016 issued by the second respondent is quashed. However the second respondent is at liberty to issue prior notice as per Sections of Tamil Nadu Land Encroachment Act, 1905 and take appropriate action against the petitioner. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Deputy Registrar (Admn)

/True Copy/

Sub Assistant Registrar

smn

To

1. The District Collector, Tirunelveli District, Tirunelveli.

2. The Tahsildar, Thiruvengadam Taluk, Tirunelveli District.

3. The Revenue Inspector, Thiruvengadam Taluk,
Tirunelveli District.

+1CC to Mr.F.X.Eugene, Advocate Sr.No.81195

+1CC to Spl.Government Pleader Sr.No.81396

Gjm/SKN/23.12.16-2p-6C

ORDER MADE IN

W. P (MD) No. 23941 of 2016

and

W. M. P (MD) No. 17273 of 2016

15.12.2016