

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 11.12.2017

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE SATRUGHANA PUJAHARI

WP.No.32292/2017

&

WMP.No.35549/2017

Mr.E.Elango

.. Petitioner

Versus

1.The District Collector
Thiruvannamalai District
Thiruvannamalai.

2.The Revenue Divisional Officer
Cheyyar, Thiruvannamalai District.

3.The Tahsildar
Arni Taluk, Arni,
Thiruvannamalai District.

4.The Commissioner
Arni Municipality, Arni Town
Tiruvannamalai District.

.. Respondents

Writ petition filed under Article 226 of the Constitution of India, praying for a writ of mandamus directing the 3rd respondent to consider and pass appropriate orders on merits, on petitioner's explanation dated 29.11.2017 to the show cause notice dated 18.11.2017 in G1/2226/2005, issued u/s.7 of the Tamil Nadu Land Encroachment Act, 1905.

For Petitioner : Mr.P.Selvaraj

For Respondents : Mr.A.N.Thambidurai, Spl.GP

ORDER

[Order of the Court was made by M.SATHYANARAYANAN, J.,]

By consent, the writ petition is taken up for final disposal. Mr.A.N.Thambidurai, learned Special Government Pleader accepts on behalf of the respondents.

2 The petitioner claims that he is a resident of Door No.31H/10, Vadiyaraja Street, El Block in TS.No.65, Arni Town. The learned counsel for the petitioner would submit that the 2nd respondent, vide proceedings dated 23.10.2008 in Na.Ka.A4/6165/2008 [page No.2 of the typed set of documents] has made a recommendation for grant of House Site Pattas in favour of 42 persons in respect of the lands which include new Town Survey Nos.60 and 65 and the petitioner, who is in possession of the same, had also put up superstructure and the same is also subjected to the statutory levies and he has also been issued with Family Card, Aadhar Card and Voters ID Card and eking out his livelihood by doing menial job and all of a sudden, to his shock and surprise, he has been issued with notice u/s.7 of the Tamil Nadu Land Encroachment Act, 1905 by the 3rd respondent, for which the petitioner has also submitted his response. It is also the further submission of the learned counsel that the 3rd respondent has also issued notice u/s.6 of the Act and that the petitioner may be permitted to submit a detailed response apart from the earlier representation which has been submitted in person. The learned counsel has also drawn the attention of the Court to the photographs available at page Nos.67 to 69 of the typed set of documents and prays for appropriate orders.

3 Per contra, Mr.A.N.Thambidurai, learned Special Government Pleader appearing for the respondents would submit that action has been taken strictly in accordance with law to evict the encroachment caused by the petitioner and since he has submitted his response, it will be given disposal in accordance with law and further proceedings would also be taken strictly in accordance with law and prays for dismissal of the writ petition.

4 The Court has considered the rival submissions and also perused the materials placed before it.

5 Though the petitioner has prayed for a larger relief, the Court, in the light of the above facts and circumstances and without going into the merits of the claim projected by the petitioner, permits the petitioner to submit a representation to the 3rd respondent along with a copy of the order, enclosing relevant and authenticated documents within a period of four weeks from the date of receipt of a copy of the order and upon

receipt of the same, the 3rd respondent shall afford an opportunity of personal hearing to the petitioner and thereafter, dispose of the representation on merits and in accordance with law and pass appropriate orders within a further period of six weeks thereafter and communicate the decision taken, to the petitioner and till such time the disposal of the representation to be submitted by the petitioner, the 3rd respondent shall defer further proceedings in terms of the impugned notices issued under sections 7 and 6 of the Tamil Nadu Land Encroachment Act, 1905. It is made clear that till the disposal of the representation by the 3rd respondent, the petitioner shall not create any third party rights in respect of the land and superstructure in question and shall also not alter the physical features of the same.

6 The writ petition stands disposed of with the above direction. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

AP

To

- 1.The District Collector
Thiruvannamalai District
Thiruvannamalai.
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Cheyyar, Thiruvannamalai District.
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Arni Taluk, Arni,
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- 4.The Commissioner
Arni Municipality, Arni Town
Tiruvannamalai District.

+1cc to Mr.P.SELVARAJ Advocate, S.R.No. 88011
+1cc to the Government Pleader, S.R.No. 88552

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MP (CO)
TR(13/12/2017)