



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.02.2017

CORAM :

The Hon'ble MR.HULUVADI G.RAMESH, ACTING CHIEF JUSTICE

AND

The Hon'ble MR.JUSTICE R.MAHADEVAN

W.P.No.4175 of 2017

and

W.M.P.No.4332 of 2017

S.Vivekanandan

.. Petitioner

-vs-

1.The Tahsildar,
Taluk Office,
Chengam Taluk,
Tiruvannamalai District.

2.The District Collector,
Tiruvannamalai District,
Tiruvannamalai.

3.S.Sivaprakasam

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorari calling for the records in Proceedings dated 14.2.2017 issued under Section 6 of the Tamil Nadu Land Encroachment Act, 1905 on the file of the first respondent and quash the same.

For Petitioner : Mr.S.Sadasharam

For Respondents : Mr.R.Vijayakumar
Addl. G.P. for R1 and R2

ORDER

(Order of the Court was made by The Hon'ble Acting Chief Justice)

1. Heard the learned counsel for parties for some time.

2. The petitioner has filed this writ petition seeking to quash the notice issued by the first respondent under Section 6 of the Tamil Nadu Land Encroachment Act, 1905.



3. It is the case of the petitioner that he is in occupation of the land measuring an extent of 540 square feet maintaining as Samathi for more than 32 years. The petitioner made several representations to the authorities seeking issuance of patta for the said land. When the petitioner put up a concrete superstructure over and around the Samathi, the third respondent obstructed for construction of the superstructure. Therefore, the petitioner lodged a police complaint. Being unable to prevent the construction and erection of concrete superstructure over and around the Samathi, the third respondent filed W.P.No.35123 of 2012 making false allegations against the petitioner and sought for direction to respondents 1 and 2 to remove the Samathi. This Court, vide order dated 14.11.2016, disposed of the writ petition directing the Tahsildar to enquire into the allegation and if any unauthorised construction found on the Government land, take action in accordance with law within a period of three months from the date of receipt of the copy of the order. Thereafter, the third respondent issued notice under Section 6 of the said Act, which is challenged in this writ petition.

4. The learned counsel for the petitioner submits that the provisions of the Tamil Nadu Land Encroachment Act, 1905 mandates issuance of notice under Section 7 of the Act before passing any order under Section 6 of the said Act. The first respondent has not issued any notice nor any enquiry was conducted before issuing notice under Section 6 of the Act.

5. On hearing the learned counsel for parties, we direct the first respondent to issue notice under Section 7 of the Tamil Nadu Land Encroachment Act, 1905 and after holding an enquiry, appropriate order would be passed under Section 6 of the said Act within a period of two months from the date of receipt of a copy of this order.

6. The writ petition is disposed of accordingly. No costs. Consequently, W.M.P.No.4332 of 2017 is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To

WEB COPY

1.The Tahsildar,
Taluk Office,
Chengam Taluk,
Tiruvannamalai District.

2.The District Collector,
Tiruvannamalai District,
Tiruvannamalai.

+ 1 cc to Mr.S. Sadasharam, Advocate SR.11258
+ 1 cc to Government Pleader Sr.11403

W.P.No.4175 of 2017

UG(CO)
Eu 28.02.17