

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.06.2017

CORAM

THE HONOURABLE MR.JUSTICE M. GOVINDARAJ

W.P.No.27304 of 2003
and
W.M.P.No.33354 of 2003

M.Kamalam

... Petitioner

vs

1.The District Collector,
Namakkal District.

2.The Tahsildar,
Namakkal Taluk,
Mohanur Road,
Namakkal District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, to issue a writ of Certiorarified Mandamus, calling for the records of the 2nd respondent in relation to impugned order dated 10.09.2003 issued under Section 6 of the Tamil Nadu Land Encroachment Act, quash the same and direct the respondents to consider the representation of the petitioner dated 27.09.2003.

For Petitioner : Mr. Tranquebar Dorai Vasu
for Mr.S.Muthukumar

For Respondents : Mr. R.Prathap Kumar
Additional Government Pleader

सतयमेव जयते
O R D E R

The petitioner is the owner of the land in plot No.11, old survey No.30/1, Patta No.170, measuring an extent of 3185 sq.ft, having purchased the same from Teacher's Co-operative House Building Society Limited, Namakkal, by way of registered sale deed bearing No.109 of 1972, dated 21.12.1971, registered at the office of the Sub Registrar, Namakkal. The petitioner is in continuous possession and enjoyment of the property and constructed a house. The petitioner is an occupant of piece of land abutting his house belonging to Government measuring 0.01.0 Are and he is in continuous possession and enjoyment of the same. All of a sudden, the second respondent issued a notice dated 10.09.2003 under section 6 of the Tamil Nadu Land

Encroachment Act, 1965, asking the petitioner to vacate the land within 15 days.

2. The grievance of the petitioner is that the procedure laid down under the Tamil Nadu Land Encroachment Act, 1965 has not followed, by the second respondent, by issuing notice under Section 7 of the said Act and the second respondent, has straight away issued notice under Section 6 of the Act asking him to vacate the land within 15 days. Aggrieved over the same, the petitioner has approached this Court.

3. Heard the submissions made on either side and perused the materials available on record.

4. It is well settled that as per the statute, notice under Section 7 Tamil Nadu Land Encroachment Act shall be given, before proceeding under Section 6 of the Act. The contention of the learned counsel for the petitioner is well placed that doctrine of principles of natural justice has to be followed in all matters. So far as the impugned order is concerned, the second respondent has bypassed the opportunity to be given to the petitioner.

5. Therefore, the impugned notice dated 10.09.2003, passed under Section 6 of the Tamil Nadu Land Encroachment Act, by the second respondent, is hereby set aside. The second respondent is directed to comply with the procedure laid down under Section 7 of the Act to proceed further, in accordance with law, if he chooses to do so.

6. With the above observation and direction, this Writ Petition is disposed of. No order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Asst.Registrar

/true copy/

Sub Asst. Registrar

ah/rpl

To:

1. The District Collector,
Namakkal District.

2. The Tahsildar,
Namakkal Taluk,
Mohanur Road,
Namakkal District.

+1cc to Muthukumar, Advocate in sr.no.45460
+1cc to Government Pleader in sr.no.45798

W.P.No.27304 of 2003
and
W.M.P.No.33354 of 2003

NR 18/07/2017



WEB COPY