



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.07.2017

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

AND

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD) No.13705 of 2017

and

W.M.P (MD) .No.10696 of 2017

Sri Swami Ayyappan Temple,
Represented by it's Trustee,
Ayyappa Selvaraj,
Muthupattinam 3rd Street,
Karaikudi,
Sivagangai District.

.. Petitioner

Vs.

1.The District Collector,
Sivagangai District,
Sivagangai.

2.The Sub Collector,
Devakkottai,
Sivagangai District.

3.The Tahsildar,
Karaikudi,
Sivagangai District.

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records in pursuant to the impugned order dated 14.07.2017, passed by the third respondent relating to S.No.156 part, Ward 2, Block 34, Muthupattinam parupoorani area in which Sri Swami Ayyappan Temple, Kalanivasal is situated and quash the same as illegal.

For Petitioner : Mr.S.Madhavan

For Respondent : Mr.T.S.Mohammed Mohideen,
Additional Government Pleader.

ORDER

[Order of the Court was made by **G.R. SWAMINATHAN, J.**]

The Writ Petitioner has questioned the order passed under Section 6 of the Tamil Nadu Land Encroachment Act.



2.It is seen that a notice under Section 7 of the Tamil Nadu Land Encroachment Act was issued on 30.06.2017, but it was served on the writ petitioner only on 13.07.2017. Immediately after receipt of the notice, the writ petitioner submitted his objection on 14.07.2017. On the same date, the order under Section 6 of the Tamil Nadu Land Encroachment Act was passed.

3.It is seen that the third respondent-the Tahsildar has merely filled up the statutory format and issued the order. This is not permissible in law as there is no application of mind. On this ground, we set aside the order passed under Section 6 of the Tamil Nadu Land Encroachment Act and remit the matter back to the file of the third respondent. It is open to the third respondent to pass a fresh order under Section 6 of the Tamil Nadu Land Encroachment Act, after following due process of law and also after considering the objection raised by the writ petitioner.

4.The Writ Petition is allowed as indicated above. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(writs)

/True copy/

Sub Assistant Registrar

To

1.The District Collector,
Sivagangai District,
Sivagangai.

2.The Sub Collector,
Devakkottai,
Sivagangai District.

3.The Tahsildar,
Karaikudi,
Sivagangai District.

+1cc to M/S.S.MADHAVAN, Advocate SR.No.67502

+1cc to Special Government Pleader, SR.No. 68371

ps/km

MAS/KK/SAR1:11.08.2017:2P-6C

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