



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.09.2017

CORAM :

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.16657 of 2017
and
W.M.P(MD) No.13262 of 2017

Christopher

... Petitioner

Vs.

1.The District Collector,
Kanyakumari District.

2.The Tahsildar,
Vilavancode,
Kanyakumari District.

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus to call for the entire records pertaining to the impugned proceedings No.Nil dated 24.07.2017 issued by the second respondent under Section 6 of Land Encroachment Act 1905 and to quash the same as illegal and to direct the second respondent to conduct survey in the presence of the petitioner and persons concerned by giving opportunity and remove the encroachment if any as per law.

For Petitioner : Mr.D.Saravanan
For Respondents : Mr.M.Govindan,
Spl.Govt.Pleader

O R D E R

(Order of the Court was made by G.R.SWAMINATHAN, J.)

The writ petitioner challenges the order under Section 6 of Tamil Nadu Land Encroachment Act, 1905 passed by the second respondent.

2.It is an appealable order. However, the learned counsel for the writ petitioner contended that he has no claim on Survey No.445/3 of Pacode Village which is referred to the impugned order he would submit that his shop is located only in Survey No.445/1.



3. In view of the nature of controversy projected before this Court, we dispose of this writ petition with a direction to the second respondent to conduct survey of the land in question. Prior notice must be issued to the writ petitioner before conducting the survey. The writ petitioner is at liberty to place the materials in his support before the second respondent. The second respondent shall verify if the shop of the writ petitioner is located in Survey No.445/1 or 445/3. If after conducting the survey, it is found that the writ petitioner has committed encroachment in Survey No.445/3, then it shall be removed. Otherwise, the question of removing the writ petitioner shop in Survey No.445/1 does not arise.

4. This writ petition is disposed of with the above observation and direction. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(Records)

/True Copy/

Sub Assistant Registrar

To

1. The District Collector, Kanyakumari District.

2. The Tahsildar,
Vilavancode, Kanyakumari District.

+1cc to M/S.D.SARAVANAN, Advocate SR.No.77895

+1cc to Special Government Pleader, SR.No. '78621

Skm / Arul
MAS/GT/SAR1:06.10.2017:2P-5C

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