



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.11.2017

CORAM:

WEB COPY

**THE HONOURABLE MR.JUSTICE M.VENUGOPAL
AND
THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE**

W.P.(MD)No.20267 of 2017 and
W.M.P.(MD)No.16512 of 2017

Sundarammal

: Petitioner

-Vs-

1. The District Collector,
Sivagangai District,
Sivagangai.
2. The Revenue Divisional Officer,
Devakkottai Division,
Sivagangai District.
3. The Zonal Deputy Tahsildar,
Karaikudi Taluk Office,
Sivagangai District.

: Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned notice under Section 7 of Tamil Nadu Land Encroachment Act, 1905, dated 07.10.2017 issued by the third Respondent and quash the same and consequently, direct the Respondents to issue patta in Survey No.19/11 with an extent of 0.00.86 hectors at Alampattu Village, Kurunthampattu Post, Karaikudi Taluk, Sivagangai District.

For Petitioner : Mr.P.Muthusamy
For Respondents : Mr.M.Govindan,
Special Government Pleader

O R D E R

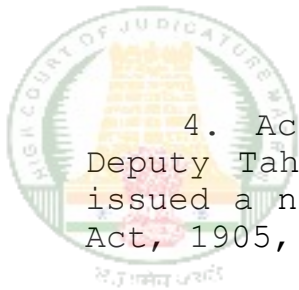
[Order of the Court was made by M.VENUGOPAL, J.]

Mr.M.Govindan, Learned Special Government Pleader, takes notice for the Respondents.

2. Heard both sides. No counter is filed on behalf of the Respondents 1 to 3.

<https://hcservices.ecourts.gov.in/hcservices/>

3. By consent, the main Writ Petition itself is taken up for final disposal.



4. According to the Petitioner, the third Respondent/ Zonal Deputy Tahsildar, Karaikudi Taluk Office, Sivagangai District, had issued a notice under Section 7 of the Tamil Nadu Land Encroachment Act, 1905, which is contrary to law.

5. It is the submission of the Learned Counsel for the Petitioner that earlier a notice was issued under Section 145 of the Code of Criminal Procedure and the same was set aside by the Learned Sessions Judge, Sivagangai, in CrI.R.C.No.14 of 1994, dated 13.03.1995. In the said order of the Criminal Revision Petition, there was a discussion in respect of the residential land in question. As such, it is the stand of the Petitioner that the third Respondent had issued a notice under Section 7 of the Tamil Nadu Land Encroachment Act, 1905 for the second time with *mala fides*.

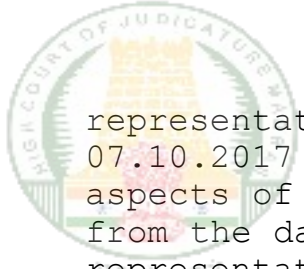
6. It comes to be known that the husband of the Petitioner had submitted a representation for seeking patta in respect of his house on 20.06.2011 and the same is pending. At this stage, the Learned Counsel for the Petitioner points out that the Petitioner had constructed a small thatched house, which was altered into a tiled roof in Survey No.19/11 measuring an extent of 0.02.58 Hectares.

7. The Learned Counsel for the Petitioner brings it to the notice of this Court that a notice was issued in M.C.No.79 of 1992, dated 24.06.1993, under Section 145 of the Code of Criminal Procedure. Later, the husband of the Petitioner had filed a revision against M.C.No.79 of 1992 before the Sessions Court, Sivagangai, in CrI.R.C.No.14 of 1994, in which, necessary orders were passed.

8. The prime grievance of the Petitioner is that the issuance of notice by the third Respondent dated 07.10.2017 under Section 7 is an unconstitutional one, because of the reason that he is living for several decades in the same place.

9. As on date, the representation of the Petitioner dated 16.10.2017 addressed to the Hon'ble Chief Minister of Tamil Nadu with a copy being marked to the Respondents is pending. It has not yet been disposed of.

10. Considering the fact that although the Petitioner has addressed a representation dated 16.10.2017 to the Hon'ble Chief Minister of Tamil Nadu, this Court, at this stage, is of the considered view that the representation for the notice dated 07.10.2017 is to be submitted by the Petitioner by addressing the same to the third Respondent, so as to enable him to look into the said representation with a view to find out if there is any substance in it. If the third Respondent, on submission of proper representation by the Petitioner, finds that the submission of the Petitioner is to be looked into, then he is to look into the same with all seriousness and earnestness and to dispose of the same in the manner known to law. As such, this Court, in the interest of justice and fair play, directs the Petitioner to submit her



representation/objections for the issuance of notice dated 07.10.2017 in a proper form setting out all the factual and legal aspects of the subject matter in issue, within a period of two weeks from the date of receipt of copy of this order. Later, on receipt of representation/objections, the third Respondent is to look into the representation of the Petitioner and to dispose of the same on merits by passing a reasoned speaking order, within a period of four weeks thereafter, after adhering to the Principles of Natural Justice. It is open to the Petitioner to raise all factual and legal pleas before the third Respondent. It is also open to the third Respondent to issue notice to the necessary parties concerned (including the Petitioner and others, if any), if need be/if situation so warrants and to dispose of the same within the time adumbrated by this Court. Till final orders are passed in the subject matter in issue, the Respondents shall not disturb the possession of the Petitioner in the subject property in any manner whatsoever.

11. With the aforesaid observation(s)/direction(s), the Writ Petition stands disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar

To

1. The District Collector,
Sivagangai District,
Sivagangai.
2. The Revenue Divisional Officer,
Devakkottai Division,
Sivagangai District.
3. The Zonal Deputy Tahsildar,
Karaikudi Taluk Office,
Sivagangai District.

+ 1 CC TO Mr.P.MUTHUSAMY, ADVOCATE IN SR No. 85306
+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 85507

SML

TE/SV-MMS/SAR-II : 20/11/2017 : 3P/6C

Order made in
W.P. (MD) No. 20267 of 2017 and
W.M.P. (MD) No. 16512 of 2017
Dated: 03.11.2017