



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.11.2017

CORAM:

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

W.P. (MD)No.21107 of 2017

and

W.M.P (MD)Nos.17368 and 17369 of 2017

K.Rajaram : Petitioner

.vs.

1.The District Collector,
Ramnad District.

2.The Tahsildar,
Paramakudi Taluk,
Ramnad District.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying this Court for issuance of a Writ of Certiorari calling for the records pertaining to the impugned order issued by the Second Respondent in his proceedings in Na.Ka.No.10548 of 2017, dated 3.10.2017 and to quash the same.

For Petitioner	:Mr.Veerakathiravan Senior Counsel for M/s.Veera Associates
For Respondents	:Mr.M.Govindan Special Govt.Pleader

O R D E R

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

This Writ Petition has been filed seeking issuance of a Writ of Certiorari calling for the records pertaining to the impugned order issued by the Second Respondent in his proceedings in Na.Ka.No.10548 of 2017, dated 3.10.2017 and to quash the same.

2.Heard both sides. No counter is filed on behalf of the respondents.

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

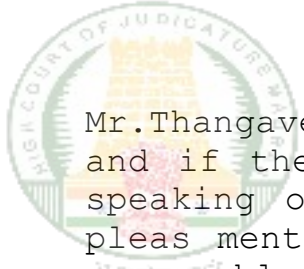


4.It transpires that the Second Respondent/The Tahsildar, Paramakudi Taluk, Ramnad District had issued a notice under Section 6 of the Tamil Nadu Land Encroachment Act, 1905 to (1)The Revenue Inspector, Nainar Koil and (2) the encroacher in respect of S.No.122, Keelakavanur Tank, measuring an extent of 41.26 ares and the mode of enjoyment is mentioned as Tin Shed. The notice was issued to one Thangavel as seen from the preamble portion of the notice in question. The said Thangavel was directed to remove the encroachment in the aforesaid survey number within 30 days from the date of receipt of notice etc,.

5.However, one Rajaram and the Village Committee in-charge of Keelakavanur South, Gopalapattinam Post, Paramakudi Taluk, Ramanathapuram District had addressed a communication to the Second Respondent/The Tahsildar, Paramakudi Taluk, Ramnad District, had among other things, mentioned that the Panthal/shed was said to be an encroachment based on the complaint of Thevar community people of north portion to a distance of 1 ½ kms and based on their complaint, the Second Respondent /The Tahsildar, Paramakudi Taluk, Ramnad District had directed the removal of encroachment and the notice was issued to one Lakshmanan and Thangavel. The said persons are in no way connected with the Panthal/Shed and they do not have any semblance of right and that the Panthal/shed belongs to the Villagers of the village and that the panthal/shed is not an encroachment.

6.First and foremost, the impugned notice, dated 03.10.2017 of the Second Respondent/The Tahsildar, Paramakudi Taluk, Ramnad District addressed to one Thangvel of Keelakavanur Village bristles with legal infirmity because of the simple reason that the said notice was issued under Section 6 of the Tamil Nadu Land Encroachment Act, 1905(in-spite of correct notice to be issued under Section 7 of the Act, 1905). As per Act, 1905, prior notice to persons in accommodation is to be issued to the concerned as per Section 7 of the Act, 1905. Unfortunately, in the present case, the Second Respondent/The Tahsildar, Paramakudi Taluk, Ramnad District had not resorted to such a procedure as envisaged under the Act, 1905.

7.In the instant case, notwithstanding the fact that the impugned notice was issued to one Thangavel under Section 6 of the Tamil Nadu land Encroachment Act, 1905, this Court while directing the Section 6 notice to be treated as Section 7 notice under Act, 1905, directs the Petitioner/K.Rajaram, President of Village Committee, Keelakavanoor, Gopalapattinam Post, Paramakudi Taluk, Ramnad District to respond to the said notice on submitting his explanation within a period two weeks from the date of receipt of the notice in compliance of this order. Thereafter, the Second Respondent is directed to look into the explanation/objections of the Writ Petitioner(although the impugned notice was issued to one



Mr.Thangavel of Keelakavanoor Village, Nainar koil Sub-Division) and if there is any substance in it, he has to pass a reasoned speaking order on merits, adhering to all the factual and legal pleas mentioned in the representation/objection and in any event, reasonable opportunity of hearing must be given to the Petitioner and others concerned, if any, by adhering to the Principles of Natural Justice and in any event, the Second Respondent is to pass final orders based on the representation of the Petitioner, dated 7.11.2017 within a period of three weeks thereafter. Till such time, status-quo prevailing as on today is permitted to continue.

8.With the above said observation(s) and direction(s), the Writ Petition stands disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar

To

1.The District Collector,
Ramnad District.

2.The Tahsildar,
Paramakudi Taluk,
Ramnad District.

+1cc to M/s.VEERA ASSOCIATES in SR. No. 34516

+1cc to THE SPECIAL GOVERNMENT PLEADER in SR. No. 87961

VSN

JS/SKN.RSK/SAR.2/22.11.2017/3P-5C

ORDER MADE IN
W.P. (MD)No.21107 Of 2017
and
W.M.P (MD) Nos.17368 and 17369 of 2017
16.11.2017