



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.08.2017

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CORAM:

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

W.P. (MD) Nos.14602 and 14264 of 2011
and
M.P. (MD) Nos.1 and 1 of 2011

V.Jeyalakshmi

... Petitioner in
W.P. (MD) No.14602 of 2011

V.Balasubramanian

... Petitioner in
W.P. (MD) No.14264 of 2011

Vs.

The Tahsildar,
Tahsildar Officer,
Ambasamudram Taluk Office,
Tirunelveli District.

... Respondents in
W.P. (MD) Nos.14602 and 14624 of 2011

PRAYER in W.P. (MD) Nos.14602 and 14264 of 2011: Writ Petitions filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records of the proceedings of the respondent in Na.Ka.No.AA9/1220/10 (ந.கா.ஆ9/1220/10) and Na.Ka.No.A9/1220/10 (ந.கா.ஆ9/1220/10) dated 21.09.2010 and 21.10.2010 respectively, and quash the same and to forbear the respondent from evicting the petitioner from the land in S.No.42/1, (Now 279/1), Harriram Street, Mukkudal, Ambasamudram Taluk, Tirunelveli District.

For Petitioners : Mr.M.Vallinayam, Senior Counsel
for D.Nallathambi

For Respondent : Mr.M.Govindan
Special Government Pleader

**COMMON ORDER**

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

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W.P.(MD)No.14602 of 2011 has been filed by one Jayalakshmi challenging the order dated 21.09.2010 passed by the Tahsildar, Ambasamudram under Section 6 of the Tamil Nadu Land Encroachment Act, 1905.

2.W.P.(MD)No.14264 of 2011 has been filed by one V.Balasubramanian challenging the order dated 21.10.2010 passed by the Tahsildar, Ambasamudram, under Section 6 of the Tamil Nadu Land Encroachment Act, 1905.

3.The impugned orders are assailed on the ground that the same have been passed without any consideration of the objections lodged by the writ petitioners in response to the notice issued under Section 7 of the Act. In fact, the Tahsildar, Ambasamudram, had rejected the objections after passing the order under Section 6 of the Act. This is clearly impermissible. The parties are given notice under Section 7 of the Act so as to enable the alleged encroacher to show cause as to why order under Section 6 of the Act should not be passed. In the present case, the writ petitioners have shown cause. Therefore, the same ought to be considered and only there after, order under Section 6 of the Act can be passed.

4.Since the order under Section 6 of the Act has been passed in a stereotyped manner without considering the writ petitioners' explanation, the same is liable to be set aside. Accordingly, the writ petitions are allowed and the matter is remitted to the file of this respondent. It is open to the writ petitioners to file a fresh explanation within a period of two weeks from the date of receipt of a copy of this order. The writ petitioners are also at liberty to raise all objections including the jurisdiction of the respondent to initiate the proceedings. It is for the respondent to consider the



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same and pass fresh order in accordance with law. No costs.
Consequently, M.P.(MD)Nos.1 and 1 of 2011 are closed.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To

The Tahsildar,
Tahsildar Office,
Ambasamudram Taluk Office,
Tirunelveli District.

+1cc to M/S.D.NALLATHAMBI, Advocate SR.No.71076.

W.P. (MD)Nos.14602, 14264 of 2011
M.P. (MD)Nos.1 and 1 of 2011
07.08.2017

mrn/lis

SDS/SV:MMS/SAR 4/07.12.2017/3P/3C