

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 28.04.2018

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE P.RAJAMANICKAM

WP.No.11317/2018 & WMP.Nos.13212 & 13213/2018

R.Mani

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Petitioner

Versus

1.The District Collector  
Salem District, Salem.

2.The Revenue Divisional Officer  
Salem, Salem District.

3.The Tahsildar  
Salem South, Salem District.

4.The Revenue Inspector  
Kondaiampatti Firka  
Salem Taluk [South]  
Salem District.

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Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorari calling for the records relating to the notice issued under section 6 of the Land Encroachment Act, issued by the 3<sup>rd</sup> respondent in No.436/2018/B1 dated 04.04.2018 and quash the same.

For Petitioner : Mr.S.Parthasarathy

For Respondents : Mr.A.N.Thambidurai, Spl.GP

ORDER

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

By consent, the writ petition is taken up for final disposal. Mr.A.N.Thambidurai, learned Special Government Pleader accepts notice on behalf of the respondents.

**2** The petitioner claims to be the co-owner of the property admeasuring to an extent of 3436 sq.ft., in Survey No.29 of Thammanayakanpatti Village, Salem Taluk and District and claims to have purchased the said property along with his wife through a registered Sale Deed bearing Doc.No.1987/1997 registered on the file of the office of the Sub Registrar, Veerapandi and after effecting purchase, had put up a superstructure and it is also subjected to statutory levies. However, to the shock and surprise of the petitioner, he was issued with the Notice u/s.7 of the Tamil Nadu Land Encroachment Act, 1905, on 30.01.2018 alleging encroachment of 108 sq.ft., in the form of superstructure in S.No.77/9 of the said village and in this regard, the petitioner has submitted a detailed representation dated 12.02.2018 and without consideration the same , the

3<sup>rd</sup> respondent has issued impugned notice u/s.6 of the said Act and

making a challenge to the said order, the present writ petition came to be filed.

**3** The learned counsel for the petitioner would submit that since a detailed response has been submitted to the notice issued u/s.7 of the Tamil Nadu Land Encroachment Act, 1905, it is obligatory on the part of the 3<sup>rd</sup> respondent to consider and dispose of the same on merits and in accordance with law.

**4** *Per Contra*, Mr.A.N.Thambidurai, learned Special Government Pleader appearing for the respondents who would submit that due process of law would be followed before evicting / dispossessing the petitioner from the land in question.

**5** This Court has considered the rival submissions and also perused the materials placed before it.

**6** This Court, taking into consideration, the facts and circumstances and without going into the merits of the claim projected by the petitioner, permits the petitioner to submit a detailed representation by enclosing relevant and authenticated documents to the 3<sup>rd</sup> respondent

within a period of two weeks from the date of receipt of a copy of this order and upon receipt of the same, the 3<sup>rd</sup> respondent is directed to consider the said representation on merits and in accordance with law and pass appropriate orders within a further period of three weeks thereafter and communicate the decision taken, to the petitioner and **till such time**, the 3<sup>rd</sup> respondent shall defer further decision in terms of the provisions of the Tamil Nadu Land Encroachment Act, 1905. It is made clear that the petitioner, till the disposal of the representation to be submitted by him, by the 3<sup>rd</sup> respondent, shall not create any third party rights in respect of the site and superstructure in question and shall not alter the physical features also.

**7** The writ petition stands disposed of with the above direction.

No costs. Consequently, connected miscellaneous petitions are closed.

सत्यमेव जयते

[MSNJ]

[PRMJ]

28.04.2018

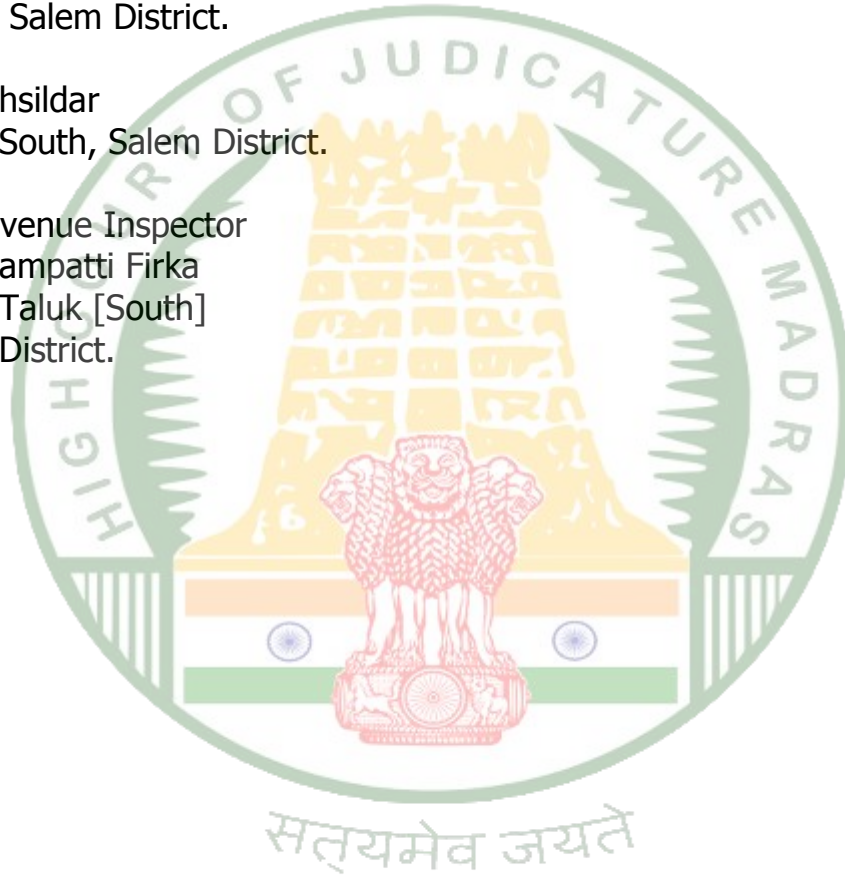
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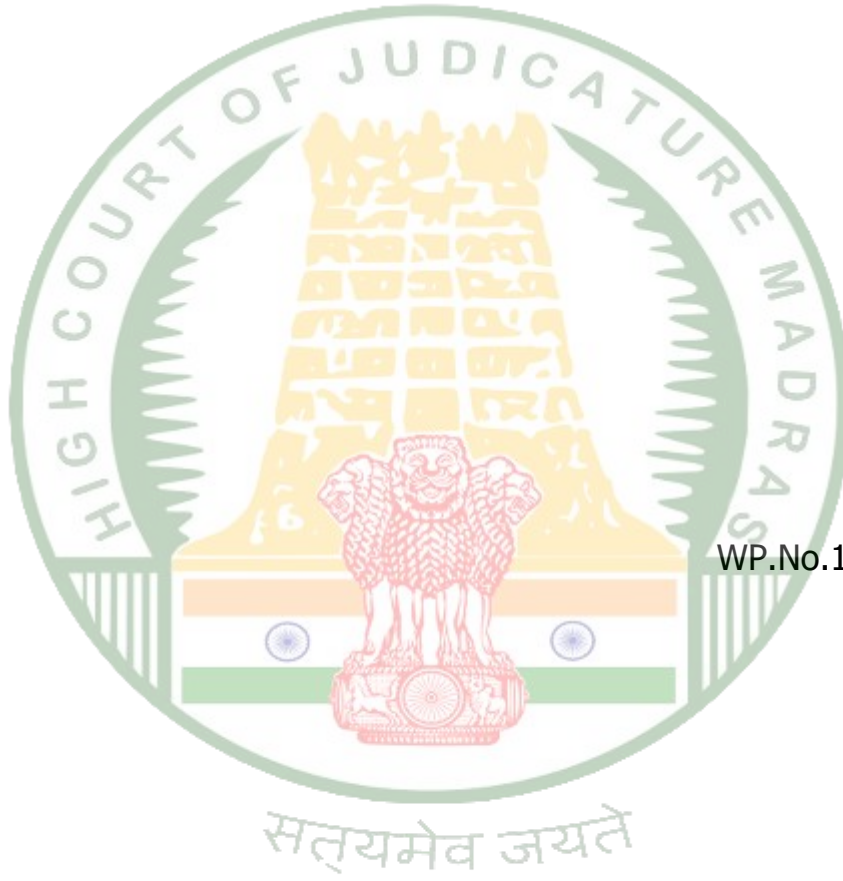
To

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M.SATHYANARAYANAN, J.,  
AND  
P.RAJAMANICKAM, J.,  
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