

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 19.01.2018

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.34269 of 2007 and MP.No.1 of 2007

Smt.K.Pankajam

... Petitioner

Versus

1.The District Collector,  
Thiruvallore District,  
Thiruvallore.

2.The Tahsildar, Ambattur,  
Ambattur Taluk Office,  
Ambattur, Chennai-600 053.

3.Mr.Narendran,  
M/s.Lakshmi Constructions,  
No.6/286, Nergundram Salai,  
Saraswathi Colony Annexure,  
Chinmaya Nagar, Chennai-600 111.

.... Respondents

PRAYER: Writ petitions filed under Article 226 of the Constitution of India praying for issuance of Writ of Declaration declaring the notice issued under Section 6 of the Land Encroachment Act 1905 dated 10.10.2007 to the Smt.Pankajam and consequential note order Na.Ka.19378/2007/C2 dated 19.10.2007 issued by the Tahsildar, Ambattur as null and void and consequently directing the respondents to restore the possession of the property, to an extent of 4610 sq.feet comprised in S.No.120/1 of Nerkundram Village, Maduravoyal Firka, Ambattur Taluk, bearing door No.6/286 of Nerkundram Road, Nerkundram bounded on the North by Nerkundram Road, South by Vacant Land, East by Common Road and West by vacant site to the petitioner.

For Petitioner : Mr.P.Thiagarajan

For Respondents : Mr.S.Kamaleshkannan, GA for R1 & R2  
Mrs.P.Selvi for R3

## ORDER

The order issued by the Tahsildar, Maduravoyal, in proceedings dated 19.10.2007 is under challenge in this writ petition.

2. The order impugned states that the writ petitioner has encroached the public land and the same has to be vacated on or before 22.10.2007. The grievances of the writ petitioner is that the procedures contemplated under the Tamil Nadu Land Encroachment Act, 1905 has not been followed and no opportunity has been given to the writ petitioner to put forth their claim in respect of their occupation.

3. The learned counsel appearing for the writ petitioner states that no prior notice was issued to the writ petitioner as per the provisions of the Act. However, Mr.P.Senthilvel, Tahsildar, Maduravoyal, who is personally present before this Court, informed that the portion of the land is under encroachment is cleared already and the other portion is not falling within the survey number as stated in the affidavit.

4. At the outset, the Tahsildar, informed this Court that the encroachment in the particular area has already been removed. However, the learned counsel for petitioner submitted certain photographs showing that the mechanic shed is in existence in the very same land. In view of the discrepancies, this Court is of the opinion that proper assessment has to be made by the Tahsildar, to ascertain the public land and secure the same in accordance with the provision of the Act.

5. In this view of the matter, the respondents are directed to verify the revenue records to find out the area of public land and if there is any encroachment, then issue proper prior notice contemplated under Section 7 of Tamil Nadu Land Encroachment Act, 1905 and thereafter evict the encroachers by invoking the powers under Section 6 of the said Act.

6. At the outset, the procedures contemplated under the Act are to be followed scrupulously before effecting any eviction in respect of the public property. The said exercise of assessment and eviction by following the procedures has to be done by the respondents within a period of three months from the date of receipt of a copy of this order.

7. With these observations, the writ petition stands disposed of. No costs. Consequently connected miscellaneous petition is also closed.

8. Post this writ petition "For Compliance" after three months.

Sd/-  
Asst.Registrar (CS V )

/true copy/

Sub Asst. Registrar

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To

- 1.The District Collector,  
Thiruvallore District,  
Thiruvallore.
- 2.The Tahsildar, Ambattur,  
Ambattur Taluk Office,  
Ambattur, Chennai-600 053.

copy to:

The Section Officer,  
Writ Section,  
High Court, Madras (Post for Compliance)

W.P.No.34269 of 2007  
and MP.No.1 of 2007

rj (co)  
nr 20/02/2018

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