

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.01.2018

CORAM :

THE HON'BLE Mr.JUSTICE S.M.SUBRAMANIAM

W.P.No.19076 of 2007  
and  
M.P.No.2 of 2007

K.Velumani

... Petitioner

Vs.

1.The Commissioner  
Corporation of Coimbatore  
Coimbatore District.

2.The District Collector  
Coimbatore  
Coimbatore District.

3.The Tahsildar  
South Taluk Office  
Coimbatore  
Coimbatore District.

4.The Assistant Commissioner  
East Zone Office  
Corporation of Coimbatore  
Coimbatore District.

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records of the 4th respondent pertaining to Na.Ka.No.13993/2006/KH1 dated 21.05.2007 and quash the same.

For Petitioner : Mr.R.Narendran

For Respondents : Mr.R.Sivakumar [For R1 & R4]  
Mr.S.Kamalesh Kannan  
Government Advocate [For R2 & R3]

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O R D E R

The relief sought for in this writ petition is to question the order issued by the fourth respondent in proceedings dated 21.05.2007.

2.The order impugned in this writ petition states that the writ petitioner himself should vacate the encroached premises within a period of three days and informed the same before the office of the Assistant Commissioner, East Zone Office, Corporation of Coimbatore, Coimbatore District.

3. The contention of the learned counsel for the writ petitioner is that the procedure as contemplated under the Tamil Nadu Land Encroachers Act, 1905 has not been followed and no notice or opportunity was provided to the writ petitioner. Contrarily, the writ petitioner was directed to vacate the premises within a period of three days, which caused the writ petitioner to prefer this writ petition.

4.This court is of the opinion that the authorities competent have to follow the procedure as contemplated under the Tamil Nadu Land Encroachers Act 1905, before evicting the person, who is encroaching the public land. Section 7 contemplates prior notice to the person who is in occupation and Section 6 provides liability of person unauthorisedly occupying land for summary eviction, for feiture of crops etc.

5.Thus, the respondents are bound to follow the procedure as contemplated under the Tamil Nadu Land Encroachers Act 1905 by issuing prior notice for eviction by citing the provision in a format. Under these circumstances, the respondents are directed to issue appropriate notice under the Tamil Nadu Land Encroachers Act 1905 and thereafter, initiate proceedings for eviction as contemplated under the Tamil Nadu Land Encroachers Act 1905.

6.With these observations, the writ petition stands disposed of. However, there is no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-  
Assistant Registrar

/true copy/

Sub Assistant Registrar

may a

To

1.The Commissioner  
Corporation of Coimbatore  
Coimbatore District.

2.The District Collector  
Coimbatore  
Coimbatore District.

3.The Tahsildar  
South Taluk Office  
Coimbatore  
Coimbatore District.

4.The Assistant Commissioner  
East Zone Office  
Corporation of Coimbatore  
Coimbatore District.

1 cc to Mr.R.Narendran, Advocate, Sr. 4333  
1 cc to Mr.R.Narendran, Advocate, Sr. 4412

W.P.No.19076 of 2007

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