

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:15.11.2018

Coram

THE HONOURABLE Mr. JUSTICE M.VENUGOPAL

AND

THE HONOURABLE Mr. JUSTICE R.PONGIAPPAN

W.P.No.29920 of 2018 and

W.M.P.No.34924 of 2018

Renuga

.. Petitioner

Vs.

- 1.The District Collector,
Thiruvannamalai District.
Thiruvannamalai.
- 2.The Revenue Divisional Officer,
Thiruvannamalai.
- 3.The Tahsildar,
Chengam Taluk,
Chengam, Tiruvannamalai District.
- 4.The Divisional Engineer,
Public Works Department,
Thiruvannamalai.

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari calling for the records relating to the Impugned Order dated 01.11.2018 issued under Section 6 of the Act 3/1905 on the file of the 3rd respondent herein, quash the same.

For Petitioner : Mr.N.Nithianantham
For Respondents : Mr.S.N.Parthasarathy
Government Advocate

WEB COPY

O R D E R

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

Heard both sides.

2.No counter is filed on behalf of the Respondents.

3.The Petitioner was issued with a notice dated 01.11.2018

under Section 6 of the Tamil Nadu Land Encroachment Act, 1905 [Act III of 1905] requiring her to vacate from the Survey No.345/13 in Chengam Town, measuring an extent of 0.005 ares, which is in her enjoyment out of a total extent of 0.70.0 ares and in fact, the Petitioner is selling stamps in the shop. The notice proceeds to point out that the Petitioner is in occupation of Government property. But the stand of the Petitioner is that the license was granted to her to sell the stamps from the Varranda of Taluk Office, Chengam and furthermore, she is only selling Court fees in Chengam Town and Advocates and litigant public are purchasing judicial stamps papers and Court fee stamps from her for their use.

4.At this stage, the Learned Counsel for the Petitioner submits that the Petitioner is not doing any other business except selling stamps and also that the Petitioner vacates the place after the working hours is over.

5.The Learned Counsel for the Petitioner projects a legal argument that the impugned notice dated 01.11.2018 issued by the 3rd Respondent/Tahsildar, Chengam Taluk, Chengam refers to Section 6 of the Tamil Nadu Land Encroachment Act, 1905 and the 3rd Respondent in fact should have issued a notice only under Section 6 of the Tamil Nadu Land Encroachment Act, 1905 to the Petitioner. Therefore, the impugned notice dated 01.11.2018 issued under Section 6 of the Act, 1905 by the 3rd Respondent/Tahsildar, Chengam Taluk, Chengam is per se an illegal one.

6.This Court, after taking note of the contention advanced on behalf of the Petitioner, directs the Petitioner to treat the Section 6 notice dated 01.11.2018 under the Act is a notice issued under Section 7 of the Act and to offer her explanation/projecting her version in respect of the subject property mentioned in the notice within a period of two weeks from the date receipt of copy of this order. Soon after receipt of copy of the explanation/representation in writing from the Petitioner by th 3rd Respondent, the 3rd Respondent shall look into the same with all seriousness and earnestness without any delay whatsoever and to pass necessary final orders in the subject matter in issue within a period of three weeks thereafter, of course, after providing necessary opportunity to the Petitioner, by adhering to the Principles of Natural Justice. It cannot be gainsaid that if the Petitioner requires any personal hearing before the 3rd Respondent/Tahsildar, Chengam Taluk, Chengam, then, the 3rd Respondent/Tahsildar, Chengam Taluk, Chengam shall concede to the said request of the Petitioner and further, if the Petitioner is desirous of producing documentary evidence at her command that also can be permitted to be received by the 3rd Respondent, who shall take

into account of the same, advert to the pleas both factual and legal, if any raised by the Petitioner in her representation/explanation and to pass a reasoned speaking order in a dispassionate manner, of course, uninfluenced and untrammelled with any of the observations made by this Court in the present Writ Petition.

7.Before parting with the case, this Court points out that the Petitioner shall provide her unstinted cooperation and assistance to the 3rd Respondent in regard to the final orders to be passed by him in the subject matter in issue. Till final orders passed by the 3rd Respondent, the Petitioner shall not be disturbed/displaced from the subject property by any one.

8.With the aforesaid observations and directions, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

Sgl
TO

- 1.The District Collector,
Thiruvannamalai District.
Thiruvannamalai.
- 2.The Revenue Divisional Officer,
Thiruvannamalai.
- 3.The Tahsildar,
Chengam Taluk,
Chengam, Tiruvannamalai District.
- 4.The Divisional Engineer,
Public Works Department,
Thiruvannamalai.

+1cc to Mr.K.Govi Ganesan, Advocate, S.R.No. 78145
+1cc to the Government Pleader, S.R.No. 79158

W.P.No.29920 of 2018

SV(CO)
GN(28/11/2018)