



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 14.08.2018

CORAM:

THE HONOURABLE MR.JUSTICE T.RAJA

and

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P(MD)No.7213 of 2018

and

W.M.P. (MD) Nos.6932 to 6934 of 2018

R.Ramasamy

.. Petitioner

Vs.

1.The District Collector,
Theni District,
Theni.

2.The Tahsildar,
O/o, Tahsildar,
Theni,
Theni District.

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, to call for records pertaining to impugned order of the respondent No.2 in Na.Ka.No.95/2018/A6, dated 20.03.2018 on the file of the respondent No.2 and quash the same as illegal.

For Petitioner	: Mr.T.Thirumurugan
For Respondents	: Mr.V.R.Shanmuganathan Special Government Pleader

ORDER

[Order of the Court was made by T.RAJA, J.]

This Writ Petition is directed against the impugned proceedings dated 20.03.2018 issued by the Tahsildar, Theni, Theni District, the second respondent herein, calling upon the petitioner to remove the encroachment allegedly made by the petitioner in Survey No.712/1, on the ground that the Tahsildar, Theni, Theni District, the second respondent herein, without even issuing any notice under Section 7 of the Tamil Nadu Land Encroachment Act, 1905, which mandates that before taking any proceedings under this Section, the Collector or Tahsildar, Deputy Tahsildar, Revenue Inspector or any authorised officer or any officer of the Highways Department not below the rank of Section Officer shall issue a notice on the person alleged to be in unauthorised occupation of the said land.



2. Heard both sides.

3. A perusal of the impugned order also tells upon us that the impugned order has been proceeded without issuing any notice whatsoever. Therefore, the petitioner has not been given any opportunity of being heard to explain his case.

4. Mr. V. R. Shanmuganathan, learned Special Government Pleader appearing for the respondents also finding that there is no reference shown in the impugned order with regard to the issuance of the notice under Section 7 of the Act, fairly submitted that the impugned proceedings may be treated as a notice by the petitioner and two weeks time may be given to offer his explanation and thereafter, the second respondent will consider the same and pass appropriate speaking order.

5. Recording the submission made by the learned Special Government Pleader appearing for the respondents, this Court directs both parties to treat the impugned proceedings, dated 20.03.2018, as a notice issued under Section 7 of the Act and the petitioner is given two weeks time from the date of receipt of a copy of this order to give his explanation. On receipt of such explanation from the petitioner, the second respondent shall consider the same and pass a speaking order and proceed thereafter in the manner known to law.

6. With the above direction, this Writ Petition is disposed of. No costs. Consequently, the connected writ miscellaneous petitions are closed.

Sd/-

Assistant Registrar (Cr1.side)

/True Copy/

Sub Assistant Registrar (CS-II)

srm

To

1. The District Collector,
Theni District,
Theni.

2. The Tahsildar,
O/o, Tahsildar,
Theni,

<https://hcservices.ecourts.gov.in/hcservices/>
Theni District.



+1cc to Mr.T.Thirumurugan, Advocate SR No.78946
+1cc to Spl Government Pleader, SR No.78932

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DS (NM) /RSK/SAR 2/12.09.18/3P/5C