



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.02.2018

CORAM:

THE HONOURABLE **MR.JUSTICE T.S.SIVAGNANAM**
and
THE HONOURABLE **MRS.JUSTICE R.THARANI**

Writ Petition (MD).No.2730 of 2018
and
W.M.P. (MD) .No.2893 of 2018

Srinivasan

... Petitioner

Vs.

1. The District Collector,
Karur District,
karur.

2. The Tahsildar,
Musiri Taluk,
Karur District.

3. A.Ganesan

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records pertaining to the impugned order of the second respondent made in A6/4546/2016 dated 24.01.2018 and quash the same.

For Petitioner : Mr.K.Govindarajan

For Respondents : Mr.R.Pandiarajan
Additional Government Pleader

O R D E R

(Order of the Court was made by **T.S.SIVAGNANAM, J.**)

Heard Mr.K.Govindarajan, learned counsel for the petitioner and Mr.R.Pandiarajan, learned Additional Government Pleader accepting notice on behalf of the respondents.

2. By consent of either side, the writ petition itself is taken up for final disposal.



3. The petitioner is aggrieved by a notice issued under Section 7 of the Tamil Nadu Land Encroachment Act, 1905. The petitioner would state that the impugned notice is without jurisdiction as the property in question is a Grama Natham property and therefore, the provisions of the Tamil Nadu Land Encroachment Act will not be applicable. Earlier, the petitioner had filed a writ petition in W.P.(MD).No.18795 of 2016, challenging the similar proceedings issued by the Tahsildar, Musiri Taluk, Karur District dated 14.09.2016.. The said writ petition was disposed of by the Division Bench of this Court, by order dated 29.09.2016, directing the petitioner's representation to be taken up as an appeal under Section 10 of the Tamil Nadu Land Encroachment Act by the District Collector. However, the said order appears to have become unworkable, because the District Collector is not a party to the writ petition and the petitioner did not take any further steps in this regard. Now, the petitioner is aggrieved by the impugned notice.

4. In our considered view, the question of jurisdiction can very well be raised before the second respondent. The learned counsel for the petitioner has drawn our attention to the copy of the 'A' Register and Natham Settlement Register to state that the Old Survey Number corresponding to New Survey No.385 is 283 and Survey Nos.283/1 and 283/3 have been described as Natham Land in the 'A' Register. Therefore, it is submitted that the second respondent cannot invoke the provisions of the Land Encroachment Act. All these contentions can very well be raised before the second respondent. More so when the impugned proceedings is only a show cause notice. Accordingly, while rejecting the prayer to quash the impugned notice, we direct the petitioner to submit his objection/reply to the notice to the second respondent within a period of 15 days from the date of receipt of a copy of this order and on receipt of the objection, the second respondent shall afford an opportunity of personal hearing to the petitioner, verify the records, which he may produce and pass orders on merits and in accordance with law, within a period of two weeks thereafter. Till then, the status quo which is prevailing as on today shall be maintained.

5. With the above directions, the writ petition stands disposed of. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-I)

/True Copy/



To

1. The District Collector,
Karur District,
karur.

2. The Tahsildar,
Musiri Taluk,
Karur District.

+1cc to Mr. Mr.K.Govindarajan, Advocate Sr.No.47997

AKV

VB/SV/MMS/SAR4/14.02.2018/3P/4C

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