



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.03.2018

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MRS.JUSTICE R.THARANI

W.P. (MD) No.5012 of 2018

and

W.M.P. (MD) No.4997 of 2018

Church of South India,
rep. by its Coordinator
Mr.Samidoss

... Petitioner

-vs-

1. The District Collector,
Sivagangai District, Sivagangai.
2. The District Revenue Officer,
Sivagangai.
3. The Revenue Divisional Officer,
Devakottai, Sivagangai District.
4. The Tahsildar,
Karaikudi, Sivagangai District.
5. The Regional Deputy Tahsildar,
Karaikudi, Sivagangai District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, calling for entire records relating to the impugned notice dated 11.01.2018 issued by 5th respondent under Section 7 and the consequential notice dated 04.02.2018 issued under Section 6 by the 4th respondent and quash the same as illegal and consequentially forbear the respondents from evicting the petitioners before passing orders on their request for grant of patta.

For Petitioner	:	Mr.V.Meenakshi Sundaram
For Respondents	:	Mr.D.Muruganandam, AGP

O R D E R

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

Heard Mr.V.Meenakshi Sundaram, learned counsel appearing for the petitioner and Mr.D.Muruganandam, learned Additional Government Pleader for the respondents.



2.The petitioner claims itself to be Church of South India and it is represented by one Mr.Samidoss as its Coordinator. The admitted case of the petitioner is that they have encroached into a government land and put up place of worship. This according to the petitioner was at the request of the public in Kazhanivasal village, Sankarapuram Panchayat, Karaikudi Taluk, Sivagangai District. No person has any vested right to encroach into the government property and then claim that he is entitled to grant patta. The petitioner has done so the same by encroaching into a government property and now seeks for grant of patta.

3.What is impugned in this writ petition is an order under Section 6 of the Tamil Nadu Land Encroachment Act. In terms of Section 10 of the Act, the petitioner has an effective alternate remedy by way of appeal before the first respondent. Therefore, the petitioner cannot challenge the impugned order by way of this writ petition. From the photographs produced before this Court, it is seen that the petitioner has fenced a vast extent of land and also erected gate. It is not known as to what the officials viz., the respondents 3 to 5 were doing when the petitioner was proceeding with the construction. The petitioner appears to have taken the law into his hands under the guise of the demand from the local public and put up construction., probably with the silent connivance of the officials.

4.As observed earlier, this writ petition is not maintainable and accordingly, the same requires to be dismissed. We find that apart from the building, a vast extent has been gardened of and there is a chain link fence and also a gate. The respondents 4 and 5 are directed to immediately remove the fence and the gate, which has been erected by the petitioner. If the petitioner does not do so within one week from today, the petitioner is granted liberty to file appeal before the first respondent.

5.In the result, this writ petition is dismissed as not maintainable giving liberty to the petitioner to file an appeal before the first respondent and if such appeal is filed within a period of one week from the date of receipt of a copy of this order, the first respondent shall entertain the appeal without rejecting the same on the ground of limitation, afford an opportunity to the petitioner and proceed further in accordance with law. The petitioner is at liberty to seek for appropriate interim orders before the first respondent. Till the first respondent decides the application for stay, the place of worship built by the petitioner shall not be disturbed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CO)



To

1. The District Collector,
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2. The District Revenue Officer,
Sivagangai.

3. The Revenue Divisional Officer,
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4. The Tahsildar,
Karaikudi, Sivagangai District.

5. The Regional Deputy Tahsildar,
Karaikudi, Sivagangai District.

+1cc to Mr.S.Nallathambi, Advocate Sr.No.53992

+1cc to Spl.Government Pleader Sr.No.54318

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