



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.05.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ
AND
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
W.P.[MD].No. 10633 of 2018
and
W.M.P.(MD)No. 9708 of 2018

T. Vadivel : Petitioner

Vs.

1. The District Collector,
Theni District,
Theni.

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

: Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents not to evict the petitioner and his family members from his residence in survey number 1652/1A in an extent of 0.94.50 Ars and in survey number 1666 in an extent of 0.35.0 Ars situated at Chithaiya Goundampatti Village, Andipatti 2nd Bit, Theni District.

For Petitioner : Mr.T. Thirumurugan

For Respondents : Mr.M.Sethuraman
Additional Government Pleader

O R D E R

[Order of the Court was made by G.R.SWAMINATHAN, J.]

The petitioner and his family members are residing in survey No. 1652/1A in an extent of 0.94.50 Ars and in survey No.1666 in an extent of 0.35.0 Ars situated at Chithaiya Goundampatti Village, Andipatti 2nd Bit, Theni District.

2. The relief sought for in this writ petition is that he should not be dispossessed, except in accordance with law. The writ petition already been issued with notice under Section 7 of Tamil Nadu Land Encroachment Act, 1905 (hereinafter referred to as 'the Act'). The petitioner has given his explanation dated



25.04.2018 in response to the said notice dated 11.04.2017, issued by the second respondent. The Act clearly contemplates that before passing final order under Section 6 of the Act, the procedure set out in Section 6(2) of the Act shall be followed.

3. The respondents are Governmental authorities. They are obliged to follow due process of law before taking action against any unauthorised occupant. Even after an order passed under Section 6 of the Act, the aggrieved party will have the right of appeal and revision. When the statute provides a particular procedure, it is incumbent on the part of the respondents to adhere to the said statutory procedure.

4. Therefore, the respondents are directed not to evict the Writ petitioner without passing a final order under Section 6 of the Act. It is needless to mention that the petitioner would be at liberty to avail the other statutory remedies available to him.

5. With these observations, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Vacation Officer

/True copy/

Sub Assistant Registrar

To

1. The District Collector,
Theni District,
Theni.
2. The Tahsildar,
O/o.Tahsildar,
Andipatti,
Theni District.

+1cc to Mr.T. Thirumurugan, Advocate, Sr.No.65194.

ORDER MADE IN
W.P.[MD].No. 10633 of 2018
09.05.2018

KSA/RR

RAM/RSK SKN/SAR 4/23.05.2018/2P/4C