



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 01.06.2018

CORAM:

THE HONOURABLE Mr.JUSTICE M.V.MURALIDARAN
AND
THE HONOURABLE Mrs.JUSTICE T.KRISHNAVALLI

W.P.(MD)No.11428 of 2018

and

W.M.P.(MD)Nos.10423 and 10424 of 2018

P.Patchaimal

...Petitioner

-Vs-

1.The District Collector,
Office of the Collectorate,
Ramanathapuram,
Ramanathapuram District.

2.The Revenue Divisional Officer,
Office of the Revenue Divisional Office,
Paramakudi, Ramanathapuram District.

3.The Tahsildar,
Taluk Office,
Paramakudi, Ramanathapuram District.

...Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records pertaining to the impugned order passed by the third respondent vide his proceeding in Na.Ka.No.A4/14480/2017, dated 02.05.2018 for eviction and quash the same as illegal.

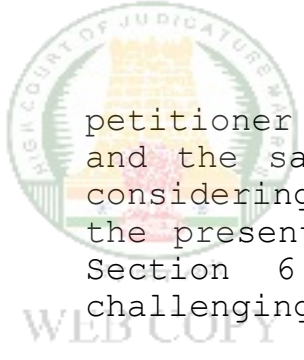
For Petitioner : Mr.D.Senthil
For Respondents : Mr.VR.Shanmuganathan,
Special Government Pleader,
assisted by Mr.C.Ramar,
Additional Government Pleader.

ORDER

(Order of the Court was made by M.V.MURALIDARAN, J.)

The petitioner seeks for a Writ of Certiorari, calling for the records pertaining to the impugned order passed by the third respondent vide his proceeding in Na.Ka.No.A4/14480/2017, dated 02.05.2018 for eviction and quash the same as illegal.

2.Admittedly, earlier, the third respondent / Tahsildar, Paramakudi, Ramanathapuram District, has issued a notice under Section 7 of the Tamil Nadu Land Encroachment Act, 1905 (hereinafter called as 'the Act') on 09.04.2018, directing the petitioner to give his reply, within a period of 15 days. For the said notice, the



petitioner has given his reply through his Advocate on 24.04.2018 and the same was received by the third respondent. But, without considering the reply given by the petitioner through his Advocate, the present impugned order, dated 02.05.2018 has been passed under Section 6 of the Act by the third respondent. Therefore, challenging the same, the present writ petition has been filed.

3. We have heard the learned counsel appearing for the petitioner and the learned Special Government Pleader appearing for the respondents.

4. As per order, dated 30.05.2018, the third respondent appeared before this Court, today.

5. Time and again, this Court and the Hon'ble Apex Court very categorically directed the revenue authorities that once they invoked the provision under the Act by issuing notice under Sections 6 and 7 of the Act, it is their bounden duty to follow the procedures. But in this case, though the notice was issued under Section 7 of the Act on 09.04.2018, directing the petitioner to give his reply within a period of 15 days and the reply was also given by the petitioner through his Advocate on 24.04.2018 for the said notice, without considering the same, the present impugned order has been passed under Section 6 of the Act. It is totally against the procedures laid down in the said Act. Therefore, we are inclined to pass the following order:-

(a) This writ petition is allowed.

(b) The impugned order dated 02.05.2018 is set aside and the matter is remitted back to the third respondent / Tahsildar, Paramakudi.

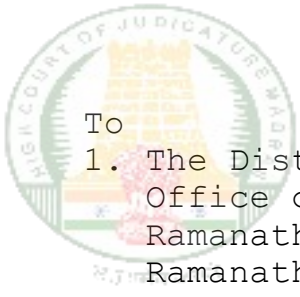
(c) The third respondent is directed to consider the reply of the petitioner dated 24.04.2018 given for the notice issued under Section 7 of the Act and pass appropriate orders, by giving personal opportunity of hearing to the petitioner, within a period of three months from the date of receipt of a copy of this order.

(d) Till such time, the respondents are directed not to take any coercive action against the petitioner.

(e) The personal appearance of the third respondent / Tahsildar, Paramakudi is dispensed with. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar ()

/True Copy/



To

1. The District Collector,
Office of the Collectorate,
Ramanathapuram,
Ramanathapuram District.
2. The Revenue Divisional Officer,
Office of the Revenue Divisional Office,
Paramakudi, Ramanathapuram District.
3. The Tahsildar,
Taluk Office,
Paramakudi, Ramanathapuram District.

+1CC to Mr.D.Senthil, Advocate, SR.No.66481

+1CC to the Special Government Pleader SR.No. 66786

W.P. (MD) No.11428 of 2018
01.06.2018

MYR/SMN

VE/SKN/RSK/SAR 3/06.06.2018/3P/6C