



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 20.08.2018

CORAM :

THE HONOURABLE MR.JUSTICE T.RAJA

And

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P(MD)No.13051 of 2018
and WMP(MD)No.11914 of 2018

K.Kanthasamy

... Petitioner

vs.

1.The District Collector,
Karur District, Karur.

2.The Tahsildar, Aravakurichi Taluk,
Karur District.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari calling for the records pertaining to the impugned notice in Na.Ka.A1/1379/2017, dated 06.06.2018 under Section 6 of the Madras Land Encroachment Act, 1905 on the file of the second respondent.

For Petitioner : Mr.N.Anandakumar
For Respondents : Mr.C.Ramar
Additional Government Pleader

* * *

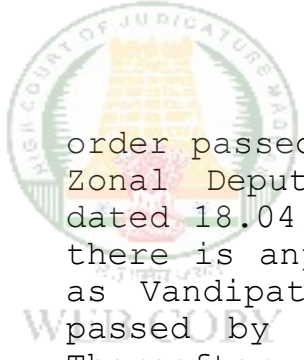
ORDER

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

This writ petition has been filed challenging the impugned notice, dated 06.06.2018 issued by the Tahsildar, Aravakurichi Taluk, Karur District directing the petitioner to remove the encroachment made in Survey No.608/A to an extent of 0.25.2 hectares.

2.The learned counsel appearing for the petitioner assailing the impugned order, submitted that when the petitioner received a notice on 21.05.2018 under Section 7 of the Madras Land Encroachment Act, 1905, a detailed reply was given on 26.05.2018 stating that the petitioner has not encroached upon any of the land in Survey No.608/A. But without considering the same, the respondents cannot proceed against the petitioner for removal of the alleged encroachment made in the aforesaid Survey No.608/A.

3.A detailed counter affidavit has been filed by the Tahsildar, Aravakurichi Taluk, Karur District. The learned Additional Government Pleader submitted that this court by order dated 09.03.2018 passed in W.P.(MD)No.2658 of 2018, directed him to depute a senior officer under his control to conduct an inspection of the entire area to ascertain whether there has been any encroachment. By virtue of the



order passed by this Court, the Tahsildar, Aravakurichi had deputed a Zonal Deputy Tahsildar Mr.K.Para.mati Zone in Na.Ka.A1/1379/2017, dated 18.04.2018 to conduct an inspection, so as to find out whether there is any encroachment made in S.F.No.608/A, which was classified as Vandipathai and also to submit a report to execute the order passed by this Court on 09.03.2018 in W.P.(MD)No.2658 of 2018. Thereafter, the Zonal Deputy Tahsildar, K.Pramathi Zone along with the revenue officials had inspected the disputed S.F.No.608/A by intimating the adjacent land owners including the Writ petitioner and thereafter surveyed and identified that the writ petitioner had encroached an extent of 0.25.2 hectares and one Murugan had encroached an extent of 0.06.5 hectares in S.F.No.608/A. A report has also been submitted on 24.04.2018. Based on the said report, the Tahsildar has issued a notice under Section 7 of the Land Encroachment Act, 1905. Therefore, the petitioner cannot once again come to this Court, when notice under Section 7 of the Act was issued to the petitioner to remove the unlawful encroachment made in S.F.No.608/A.

4.It is seen that the petitioner without removing the unlawful encroachment, has given a reply to the said notice that he has not encroached the Government property. Also, we are unable to agree with the stand taken by the Tahsildar that the petitioner has not given suitable reply to the notice, dated 21.05.2018 issued under Section 7 of the Act. In fact, the reply given by the petitioner on 26.05.2018, taking a ground that he has not encroached any piece of land in Survey No.608/A, can be taken into consideration. When the petitioner has given a reply that he has not encroached any land in S.F.No.608/A, the respondents can always proceed for removal of any encroachment, if found in Survey No.608/A and do the needful.

5.With the above observations, this writ petition shall stand dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

SD

ASSISTANT REGISTRAR (AS)

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SUB ASSISTANT REGISTRAR (CS IV)

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To

1.The District Collector, Karur District, Karur.

2.The Tahsildar, Aravakurichi Taluk, Karur District.

1CC TO MR. N. ANANDA KUMAR, ADVOCATE SR 79462

1CC TO THE SPL GOVT PLEADER SR 79369

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