



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.01.2018

CORAM:

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
and
THE HONOURABLE MRS.JUSTICE R.THARANI

W.P(MD)No.23770 of 2017
and
W.M.P(MD)No.19551 of 2017

A.Ponnaiah

... Petitioner

Vs.

1. The District Collector,
Collectorate Office,
Madurai District.

2. The Tahsildar,
Melur Taluk Office,
Melur Taluk,
Madurai District.

3.V.Maruthappan

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, calling for the records relating to the impugned order, dated 15.12.2017 of the second respondent and to quash the same.

For Petitioner : Mr.V.Santhakumaresan

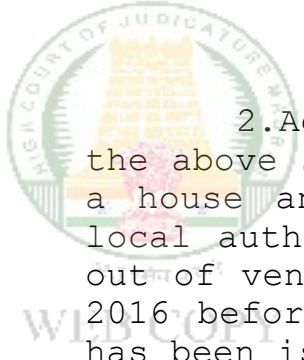
For RR 1 & 2 : Mr.D.Muruganandham,
Additional Government Pleader

For R - 3 : Mr.I.Pinay Gosh

ORDER

(Order of the Court was made by **N.KIRUBAKARAN, J.**)

The petitioner has challenged the order, dated 15.12.2017 passed by the second respondent under Section 6 of the Tamil Nadu Land Encroachment Act, 1905, directing the petitioner to remove the alleged encroachment made in Survey No.514, situated at 44, Oorkavalan Tank, Melavalu.



2. According to the petitioner, he has been in occupation of the above said property for generations together and he has put up a house and has been living there for so many years. Even the local authorities have levied property Tax, the third respondent, out of vengeance, has filed a Writ Petition in W.P(MD)No.19462 of 2016 before this Court and thereafter, only, the impugned notice has been issued.

3. The learned counsel appearing for the petitioner would submit that without issuing show-cause notice under Section 7 of the said Act, final order has been passed. Hence, the petitioner is constrained to file this Writ Petition.

4. Heard Mr.V.Santhakumaresan, learned counsel for the petitioner, Mr.D.Murugandham, learned Additional Government Pleader, who takes notice on behalf of the respondents 1 and 2 and Mr.I.Pinay Gosh learned counsel for the third respondent.

5. Without going into the merits of the other details, this Court is of the opinion that without issuing notice under Section 7 of the said Act, no order could be passed under Section 6 of the said Act and therefore, the petitioner is directed to consider the impugned notice issued under Section 6 of the said Act, as the show-cause notice issued under Section 7 of the said Act and give reply to the second respondent within a period of four weeks from the date of receipt of a copy of this order and on such receipt of reply, the second respondent has to decide the matter, after giving opportunity to the petitioner as well as the third respondent, and pass appropriate orders on merits and in accordance with law within a period of eight weeks thereafter. Till the orders are passed and the order is communicated to the petitioner, no coercive steps shall be taken either to evict the petitioner or to interfere with his possession.

6. This Writ Petition is disposed of accordingly. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar

To

1. The District Collector,
Collectorate Office,

<https://hcservices.mca.gov.in/HCServices> District.



2. The Tahsildar,
Melur Taluk Office,
Melur Taluk,
Madurai District.

+ 1 cc TO Mr.V.Sankaranarayanan , Advocate in SR No. 41077
+ 1 cc TO Mr.I.Pinay Goash , Advocate in SR No. 40910
+ 1 cc TO The Special Government Pleader in SR No. 41031

ps

AE/JC/SAR4/01.02.2018/3P/6C

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08.01.2018