



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 01.07.2019

CORAM

THE HONOURABLE MR.JUSTICE **K.RAVICHANDRABAABU**

AND

THE HONOURABLE MR.JUSTICE **SENTHILKUMAR RAMAMOORTHY**

W.P.(MD)No.13827 of 2019

and

W.M.P(MD)No.10346 of 2019

Chinnadurai

.. petitioner

Vs.

1.The District Collector,
Pudukottai District,
Pudukkottai.

2.The Tahsildar,
Ponnamaravathi Taluk,
Pudukkottai District.

3.The Revenue Inspector,
Karaiyur,
Ponnamaravathi Taluk,
Pudukkottai District.

..Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order of the third respondent dated 13.06.2019 vide his proceedings in Na.Ka.No.8730/2018/A8 and quash the same as illegal, consequently direct the first respondent to consider the petitioner application for patta dated 04.01.2019 and 30.03.2019 within time frame fixed by this Court.

For Petitioner : Mr.T.Vadivelan
For Respondents : Mr.V.R.Shanmuganathan
Spl. Govt. Pleader

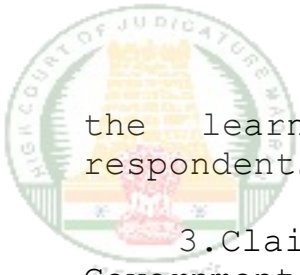
ORDER

[Order of the Court was made by **K.RAVICHANDRABAABU, J**]

This writ petition is filed challenging the order of the third respondent, dated 13.06.2019, issued under Section 6 of the Land Encroachment Act, 1905.

<https://hcservices.ecourts.gov.in/hcservices/>

2.Heard the learned counsel appearing for the petitioner and



the learned Special Government Pleader appearing for the respondents.

3. Claiming that the petitioner has encroached upon the Government tank poramboke land situated at S.No.299/2, a notice under Section 7 of the Land Encroachment Act was issued on the petitioner on 24.01.2019. It is stated that the petitioner, on receipt of such notice, gave his explanation on 30.03.2019 before the second respondent. However, the present impugned proceedings under Section 6 was issued without reference to the explanation submitted by the petitioner, dated 30.03.2019. Therefore, it is contended by the petitioner that the impugned proceedings, though was issued under Section 6, is not sustainable solely on the ground of violation of principles of natural justice, as the objections raised by the petitioner were not at all considered before passing the impugned proceedings. Further, it is stated that the impugned proceedings was issued by the Revenue Inspector himself, when such power is vested only on the Revenue Tahsildar to issue such proceedings. Therefore, on the sole ground, the present writ petition is filed.

4. The learned Special Government Pleader, based on instructions, submitted that it is true that the petitioner has given his explanation on 30.03.2019 and however, the same was not referred to in the impugned proceedings. He is also admitting the position that the Revenue Inspector is not competent to issue the proceedings under Section 6 and on the other hand, it is the Revenue Tahsildhar has to issue the same.

5. Upon hearing both sides and considering the submission made before us, it is evident that the impugned proceedings cannot be sustained on two reasons. Firstly, it is seen that the very official, who issued the impugned proceedings, is not the competent authority. Secondly, it is admitted by the learned Special Government Pleader that the petitioner has already made objections before the second respondent Tahsildar on 30.03.2019 against the Section 7 notice issued by him. When such being the factual position, without considering such objections, the notice under Section 6 cannot be issued. Therefore, even assuming that the present proceedings was issued by the Tahsildar then again, the same is not sustainable on the ground of violation of principles of natural justice. Therefore, we are inclined to interfere with the impugned proceedings only the above said two reasons.

6. Accordingly, this Writ Petition is allowed and the impugned proceedings is set aside. Consequently, the matter is remitted back to the second respondent for considering the objections raised by the petitioner already on 30.03.2019 and pass orders on merits and in accordance with law under Section 6 of the Act, within a period of three weeks from the date of receipt of a copy



of this order. We make it clear that we are not expressing any view on the merits of the contention raised by both the parties, as it is for the second respondent to consider and decide the same based on the objections raised by the petitioner. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar ()

// True Copy //

Sub Assistant Registrar (CS)

To

1.The District Collector,
Pudukottai District,
Pudukkottai.

2.The Tahsildar,
Ponnamaravathi Taluk,
Pudukkottai District.

3.The Revenue Inspector,
Karaiyur,
Ponnamaravathi Taluk,
Pudukkottai District.

+1 cc to Mr.T.Vadivelan , Advocate SR.No.72855

+1 cc to The Special Government Pleader Sr.No.72918

skn

W.P.(MD)No.13827 of 2019

and

W.M.P(MD)No.10346 of 2019

01.07.2019

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