



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

and

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.(MD)Nos 14050 to 14060 of 2019

and

WMP(MD)Nos.10532 to 10544 of 2019

A.Xavior	: Petitioner in W.P.(MD)No.14050 of 2019
Packiyajothi	: Petitioner in W.P.(MD)No.14051 of 2019
A.Pilavendran	: Petitioner in W.P.(MD)No.14052 of 2019
A.Simionraj	: Petitioner in W.P.(MD)No.14053 of 2019
Savariyammal	: Petitioner in W.P.(MD)No.14054 of 2019
D.Aruldoss	: Petitioner in W.P.(MD)No.14055 of 2019
V.Kalimuthu	: Petitioner in W.P.(MD)No.14056 of 2019
V.Arockiyam	: Petitioner in W.P.(MD)No.14057 of 2019
A.Yagappan	: Petitioner in W.P.(MD)No.14058 of 2019
I.Arockiyam	: Petitioner in W.P.(MD)No.14059 of 2019
Savarimuthan	: Petitioner in W.P.(MD)No.14060 of 2019

Vs.

1.The District Collector,
Ramanathapuram,
Ramanathapuram District.

2.The Thasildar,
Thiruvadanai Taluk,
Ramanathapuram District.

: Respondents in all the Writ Petitions

COMMON PRAYER: Writ Petitions filed under Article 226 of the Constitution of India, to issue a writ of Certiorari calling for the records pertaining to the impugned eviction notice dated 04.06.2019 on the file of the second respondent and quash the same as illegal.



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For Petitioners in
all W.Ps.

: Mr.S.Rajasekar

For Respondents in
all W.Ps.

: Mr.V.R.Shanmuganathan
Special Government Pleader

C O M M O N O R D E R

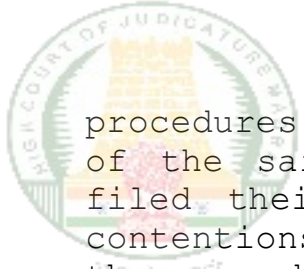
[Order of the Court was made by **K.RAVICHANDRABAABU, J.**]

In all these writ petitions, the challenge made is against the eviction notice, dated 04.06.2019, issued under Section 6 of the Land Encroachment Act, 1905.

2.Heard the learned counsel for the petitioners and the learned Special Government Pleader for the respondents.

3.It is seen that a writ petition was filed before this Court in W.P.(MD)No.2804 of 2019 by one G.Gunasekaran seeking for Mandamus directing the respondents therein to remove the encroachment made in a common pathway in Survey No.102, situated at Neivayal Village, Thiruvadanai Taluk, Ramnad District. It is further seen that the said writ petition was disposed on 22.02.2019 with a direction to the respondents therein to take appropriate action, on the basis of the representation made by the petitioner therein and to remove the encroachment by following due procedure established by law within a period of three months from the date of receipt of a copy of that order. Consequent upon the order passed in the said writ petition, notice under Section 7 of the Land Encroachment Act, was issued by the second respondent herein on 10.05.2019 to these petitioners. Without filing an objection touching upon the merits of the respective claim of the parties, these petitioners have only made a request on 24.05.2019 asking the second respondent to grant time for them to approach the Court and get some orders. Therefore, the second respondent in the absence of any objection/reply to the notice under Section 7 of the said Act, passed the impugned order under Section 6 of the said Act and called upon the petitioners to vacate within seven days. The said order is now put to challenge before this Court by contending that the petitioners were not given adequate opportunity. It is also contended by the petitioners that they are not encroachers.

4.We are not inclined to go into the merits of the contentions raised by these petitioners in these writ petitions, ~~more particularly~~, when the second respondent has only proceeded to take action under the Land Encroachment Act by following the



procedures contemplated therein by issuing notice under Section 7 of the said Act, dated 04.06.2019. The petitioners should have filed their objections to the said notice by raising all the contentions on merits. Instead, they only sought for time before the second respondent and therefore such representation cannot be treated as an objection to the notice issued under Section 7 of the said Act. Therefore, we are of the view that the petitioners have to give their explanation to the second respondent by placing all their contentions on the merits of their claim and that the second respondent should pass a speaking order thereafter by considering those objections.

5. Accordingly, all these writ petitions are disposed of without expressing any view on the claim made by the respective parties only with the following directions:-

"(a). The impugned order passed under Section 6 of the Land Encroachment Act is set aside and the matter is remitted back to the second respondent for fresh consideration.

(b). The petitioners shall give their explanation to Section 7 notice within two weeks from the date of receipt of a copy of this order.

(c). On receipt of such explanation, the second respondent shall pass a speaking order within a period of four weeks thereafter. Till an order is passed by the second respondent as stated supra, the *status-quo* as on today shall be maintained by both parties."

No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar (CS)

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To

1. The District Collector, Ramanathapuram,
Ramanathapuram District.

2. The Thasildar, Thiruvadanai Taluk,
Ramanathapuram District.

+1cc to the Special Government Pleader in SR.73444

W.P. (MD) Nos. 14050 to 14060 of 2019

03.07.2019