



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 01.07.2019

CORAM:

THE HON'BLE MR.JUSTICE K.RAVICHANDRABAABU

and

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.(MD)No.4104 of 2019

and

W.M.P.(MD) Nos.3203 & 3204 of 2019

Velmurugan

... Petitioner

vs.

1) The District Collector,
Virudhunagar District,
Virudhunagar.

2) The Revenue Divisional Officer,
Virudhunagar District,
Virudhunagar.

3) The Tahsildar,
Vembakottai Taluk Office,
Virudhunagar District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus to call for the records pertaining to the impugned notice dated 06.02.2019 issued by the 3rd respondent and quash the same consequently direct the respondents not to interfere the petitioner's peaceful possession and enjoyment of the property in Survey No.849/1 at Door Nos.1/595 and 1/635, Pallikooda Street, Vembakottai Village, Virudhunagar District.

For Petitioner : Mr.G.Kasinathadurai

For Respondents : Mr.N.Shanmugaselvam,

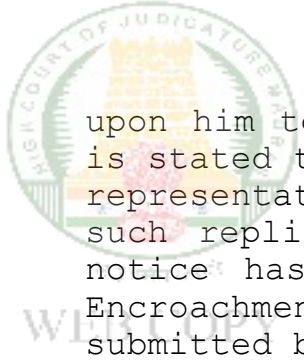
Additional Government Pleader

ORDER

(Order of this Court was made by **SENTHILKUMAR RAMAMOORTHY , J.**)

This Writ Petition is filed challenging the notice dated 06.02.2019 issued by the third Respondent under Section 6 of the Tamil Nadu Land Encroachment Act, 1905.

2. The case of the Petitioner is that he has constructed two houses in S.No.849/1 after applying for building plan approval from the Vembakottai Village Panchayat. It is further submitted that he has also obtained electricity connection and is paying house tax. He further submits that he has also applied for patta and that under these circumstances, he received a notice dated 29.05.2018 calling



upon him to vacate the building. On receipt of the said notice, it is stated that he issued a reply dated 09.06.2018 and also submitted representations on 31.08.2018 and 06.09.2018. In spite of submitting such replies and representations, it is stated that the impugned notice has been issued under Section 6 of the Tamil Nadu Land Encroachment Act, 1905 without considering the representations submitted by the Petitioner.

3. The learned counsel for the Petitioner reiterated the submissions made in the affidavit in support of the writ petition and contended that the objections and explanations of the Petitioner were not taken into consideration while issuing the impugned notice dated 06.02.2019.

4. In response, the learned Additional Government Pleader appearing for the Respondents submits that the representations of the Petitioner would be considered and orders would be passed in accordance with the provisions of the Tamil Nadu Land Encroachment Act, 1905.

5. Heard Mr.G.Kasinathadurai, learned counsel for the Petitioner and Mr.N.Shanmugaselvam, learned Additional Government Pleader appearing for the Respondents.

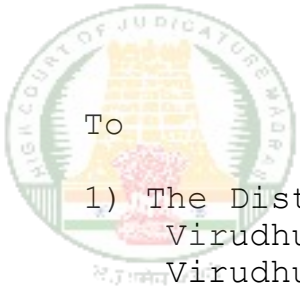
6. On perusal of the impugned notice dated 06.02.2019, we find that as correctly contended by the learned counsel for the Petitioner, the earlier reply and representations of the Petitioner have not been taken into consideration and the said order does not contain any reasons for concluding that the petition is an encroacher. Accordingly, this impugned notice is set aside and the matter is remanded to the said respondents for considering the reply dated 09.06.2018 of the Petitioner and thereafter, to pass a speaking order on merits and in accordance with law within a period of four(04) weeks from the date of receipt of a copy of this order.

7. Although the impugned notice dated 06.02.2019 has been issued under Section 6 of the Tamil Nadu Land Encroachment Act, 1905, and there is an alternative remedy by way of appeal against the same, we are inclined to entertain this Writ Petition in view of the fact that the said impugned notice does not contain any reasons, the objections of the Petitioner have not been considered and there is violation of the principles of natural justice. Accordingly, the Writ Petition is disposed of on the above terms. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

// True Copy //



To

1) The District Collector,
Virudhunagar District,
Virudhunagar.

2) The Revenue Divisional Officer,
Virudhunagar District,
Virudhunagar.

3) The Tahsildar,
Vembakottai Taluk Office,
Virudhunagar District.

+1 CC to Mr.G.Kasinatha Durai, Advocate SR.No.72482.

+1 CC to SPECIAL GOVERNMENT PLEADER SR.No.73198.

Order made in
W.P. (MD) No. 4104 of 2019

Dated:
01.07.2019

CS: 11/07/2019 3P 6C