



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.06.2019

CORAM:

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

and

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P. (MD) No.5219 of 2019

and

WMP (MD) Nos.4169; 4170 and 6371 of 2019

M.Raspect Niyalsingh Mani : Petitioner

Vs.

1. The District Collector,
Tirunelveli District.

2. The Tahsildar,
Radhapuram Taluk,
Tirunelveli District.

: Respondents

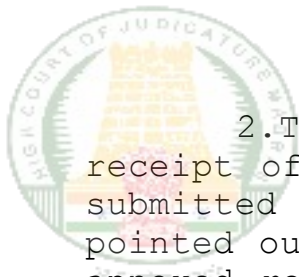
PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus calling for the entire records pertaining to the notice signed on 03.11.2018 as well as the consequential notice signed on 31.01.2019 by the second respondent in respect of the properties situated in Survey No.2060/6C2, 2060/1B; 2060/6D2; 2060/5B and 2060/3B, Perunkudi Part II Village, Radhapuram Taluk, Tirunelveli District and quash the same and consequently direct the respondents not to interfere into the petitioner's right, enjoyment and possession of the said properties.

For Petitioner : Mr.R.Anand
For Respondents : Mr.N.Shanmugaselvam
Additional Government Pleader

O R D E R

[Order of the Court was made by **SENTHILKUMAR RAMAMOORTHY J.**]

This writ petition is filed challenging the notice dated 03.11.2018 under Section 7 of the Tamil Nadu Land Encroachment Act, 1905 and the consequential notice dated 31.01.2019 under Section 6 of the said Act.



2.The learned counsel for the petitioner submits that on receipt of notice under Section 7 of the Act, the petitioner has submitted his representation, dated 08.01.2019, wherein he had pointed out that the lands in question are patta lands and he had annexed relevant documents to substantiate the same. According to the learned counsel, in spite of receipt of the said representation dated 08.01.2019, the notice under Section 6 of the Act was issued on 31.01.2019 in a mechanical fashion without advertting to the explanation tendered by the petitioner.

3.On perusal of notice issued under Section 6 of the Act, it is evident that the said notice does not take into consideration what is stated in the representation of the petitioner dated 08.01.2019 and that it is not a speaking order.

4.Consequently, without expressing any view on the merits of the claim made by the petitioner, we are of the view that it is just and appropriate to quash the notice issued under Section 6 of the Act. Accordingly, the impugned notice dated 31.01.2019 issued under Section 6 of the Act, is quashed and the matter is remitted back to the second respondent/Tahsildar. The second respondent/Tahsildar, shall consider the representation of the petitioner dated 08.01.2019 and pass a speaking order under Section 6 of the Act, after affording opportunity of personal hearing to the petitioner and other necessary parties, if any, within a period of four weeks from the date of receipt of a copy of this order.

5.The writ petition is allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (cs II)

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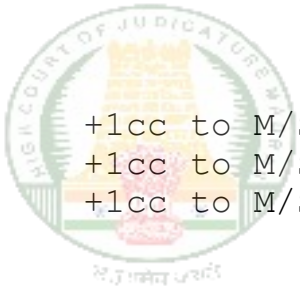
Sub Assistant Registrar(CS)

Rj2

To

1. The District Collector,
Tirunelveli District.

2. The Tahsildar,
Radhapuram Taluk,
Tirunelveli District.



+1cc to M/S SPECIAL GOVERNMENT PLEADER, Sr.No.67869
+1cc to M/S R.ANDAND SR.NO.68055
+1cc to M/S S.R. ANBARASU SR.NO.68253

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Order made in
W.P. (MD) No.5219 of 2019
and
WMP (MD) Nos.4169; 4170 and 6371 of 2019

Dated: 10.06.2019

BUC (18/06/2019) 3P 6C