



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT  
DATED: 26.07.2019  
CORAM:

**THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU**  
**and**  
**THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.(MD)Nos.16616 and 16626 of 2019  
and  
W.M.P.(MD)Nos.13261 and 13247 of 2019

P.Raghunathan : Petitioner in W.P.(MD)No.16616 of 2019  
K.Backyalakshmi : Petitioner in W.P.(MD)No.16626 of 2019

Vs.

The Executive Officer,  
Aravakuruchi Town Panchayat,  
Karur District, Karur. : Respondent in both the Writ Petitions

COMMON PRAYER: Writ Petitions are filed under Article 226 of the Constitution of India, to issue a writ of Certiorari Calling for the records relating to the impugned notice issued by the respondent in his proceedings Na.Ka.No.134/2014, dated 17.07.2019 u/s.7 of the Tamil Nadu Land Encroachment Act, 1905 and quash the same as illegal and without jurisdiction.

For Petitioners in both  
writ petitions : Mr.B.Saravanan

For Respondent in both  
writ petitions : Mr.V.R.Shanmuganathan  
Special Government Pleader

**C O M M O N O R D E R**

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

Both these writ petitions are filed challenging the proceedings of the respondent, dated 17.07.2019, which is nothing but a notice under Section 7 of the Tamil Nadu Land Encroachment Act, 1905.

2.Mr.V.R.Shanmuganathan, learned Special Government Pleader takes notice for the respondent and by consent, the main writ petitions itself are taken up for final disposal, since the issue involved in these cases can be considered and decided based on the admitted position of law.



3. Claiming that the petitioners herein have made encroachment at Survey No.758/E1 and 776/A & B respectively, the respondent issued the impugned notice by invoking Section 7 of the Tamil Nadu Land Encroachment Act, 1905. The main grievance of the petitioners is that the respondent lacks jurisdiction to issue such notice under Section 7 of the said Act, since such power is vested only on the revenue authorities.

4. The learned Special Government Pleader, on the other hand contended that the respondent is empowered to initiate proceedings under Section 131(2) of the Tamil Nadu Panchayat Act, 1994, for eviction of the encroachment and therefore, this notice itself can be treated as the one issued under the above said provision and consequently the petitioner may be directed to give explanation to the said notice.

5. Considering the fact that the present notice though was issued under Section 7 of the Tamil Nadu Land Encroachment Act, 1905, we are of the view that such proceedings can be initiated only by the revenue authorities. However, even before initiating such proceedings by the revenue authorities, the respondent herein is entitled to take action under Section 131(2) of the Tamil Nadu Panchayat Act, 1994. Therefore, without expressing any view on the merits of the claim made by the respective parties, we direct both the parties to treat the impugned notice as the one issued under Section 131(2) of the Tamil Nadu Panchayat Act, 1994, so as to enable the petitioners to give explanation to the said notice. If any such explanation is given, the same shall be considered by the respondent and appropriate orders shall be passed on merits and in accordance with law. If the respondent is of the view that the petitioners are liable to be evicted even after considering their objection, it is open to the respondent to resort to the remedies available under the Tamil Nadu Land Encroachment Act, 1905, through the revenue officials as contemplated under Section 131(2) of the Tamil Nadu Panchayat Act, 1994, r/w Sections 7 and 6 of the Tamil Nadu Land Encroachment Act, 1905.

6. Accordingly, both the writ petitions are disposed of by directing the petitioners to give explanation within a period of two weeks from the date of receipt of a copy of this order. On receipt of such explanation, the respondent shall pass appropriate orders as directed supra, within a period of four weeks thereafter. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar (CS)



To

The Executive Officer,  
Aravakuruchi Town Panchayat,  
Karur District,  
Karur.

+2cc to Mr.B.SARAVANAN ,Advocate, SR.No.77823 & 77824

W.P. (MD) Nos.16616 and 16626 of 2019  
and  
W.M.P. (MD) Nos.13261 and 13247 of 2019  
26.07.2019

NA (31.07.2019) 3P : 4C