



WEB COPY

W.P(MD)No.19302 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **05.09.2019**

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MRS.JUSTICE R.THARANI

W.P(MD)No.19302 of 2019

and

W.M.P. (MD)No.15725 of 2019

D.Victor

.. Petitioner

Vs.

The Tahsildhar,
Ottapidaram Taluk,
Thoothukudi District.

.. Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, to call for the records relating to the impugned notice issued by the respondent under Section 7 of the Land Encroachment Act, 3 1905 dated 21.08.2019 and to quash the same.

For Petitioner : Mr.T.Chandrasekaran

For Respondent : Mr.S.Angappan
Government Advocate

ORDER

[Order of the Court was made by **T.S.SIVAGNANAM, J.**]

Heard Mr.T.Chandrasekaran, learned counsel appearing for the petitioner, Mr.S.Angappan, learned Government Advocate, appearing for the respondent.

2. By consent of both parties, this writ petition is taken up for final disposal.

3. This writ petition has been filed to quash the notice issued by the respondent under Section 7 of the Tamil Nadu Land Encroachment Act, 1905 (in short 'Act) on the ground that the land occupied by the petitioner is the land, which was purchased by his grandfather in the year 1971 and after his life time the petitioner is in enjoyment of the property.

4. The learned Government Advocate appearing for the respondent submitted that the petitioner has been granted free house site patta in respect of the land in Survey No.264/5 measuring to an extent of 0.0078 sqr.meter in Ottanchathiram Village, Ottapidaram



Taluk, Thoothukudi District. There is no dispute with regard to the said extent. However, what the petitioner has done is he encroached the adjacent property than the Government provided. Therefore, the public raised objections and the Tahsildar after conducting inspection and perusal of the records has issued Form 7 notice.

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5. The petitioner cannot be stated to be aggrieved by a notice issued under Section 7 of the Act, because it is in the nature of show cause notice. The proper course to be adopted by the petitioner is to reply to the notice. But the writ petitioner referred to the representation, dated 08.08.2019. This representation cannot be treated as reply to the show cause notice issued under Section 7 of the Act, since the notice was issued on 21.08.2019, which is after the representation. Therefore, at this juncture, the impugned notice cannot be quashed and accordingly, this writ petition is dismissed. The petitioner is directed to submit his reply / objections to the impugned notice within a period of two weeks from the date of receipt of a copy of this order and on receiving of which, the respondent is directed to consider the same and proceed in accordance with law. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar(CS)

To

The Tahsildhar,
Ottapidaram Taluk,
Thoothukudi District.

+1 CC to Mr.T.CHANDRASEKARAN, Advocate SR-85518.

+1 CC to SPL GP SR-85640.

ORDER MADE IN
W.P(MD)No.19302 of 2019
05.09.2019

CS(20.09.2019) 2P 4C