



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.11.2019

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MRS.JUSTICE R.THARANI

W.P. (MD) No.23930 of 2019

and

W.M.P. (MD) Nos.20541 & 20542 of 2019

G.Mariappan

... Petitioner

-VS-

1.The District Collector
Virudhunagar
Virudhunagar District

2.The Tahsildar
Vembakottai Taluk
Virudhunagar District

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorari to call for the records pertaining to the notice dated 21.10.2016 issued by the second respondent herein and quash the same as illegal and arbitrary.

For Petitioner : Mr.P.Samuel Gunasingh
For Respondents : Mr.A.Muthu Karuppan
Additional Government Pleader

O R D E R

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

The petitioner has filed this writ petition seeking for issuance of a writ of certiorari to quash the notice issued by the second respondent, dated 21.10.2016, under Section 6 of the Tamil Nadu Land Encroachment Act.

2. According to the petitioner, he is not an encroacher and there are sufficient documents to show that he has a valid right to be in occupation of the property in question.

3. We find that the impugned notice was issued on 11.08.2016 and the same was not implemented because of the pendency of the civil suit in O.S.No.197 of 2016, on the file of the District Munsif Court, Sivakasi. There appears to have been an order of interim injunction and ultimately, the suit has been dismissed by Judgment

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4. The petitioner is in the process of filing appeal before the Lower Appellate Court. In the meantime, since the Authorities were proceeded to take action for eviction, the petitioner has rushed to this Court.

5. According to the petitioner, he alone is not the encroacher, but there are other encroachers. The correctness of the notice issued under the provisions of the Tamil Nadu Land Encroachment Act cannot be decided in a writ petition, because the petitioner has already moved the Civil Court and having lost before the Trial Court, he is in the process of filing appeal. However, we take note of the submission of the petitioner that there are other encroachers.

6. The learned Additional Government Pleader, on instructions, confirms the said fact.

7. In the light of the above, we direct the respondents to take action against all encroachers, without any discrimination. Insofar as the petitioner is concerned, we grant liberty to the petitioner to file appeal before the District Collector / first respondent, if he is so advised or pursue his remedy before the Civil Court.

8. Accordingly, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

Sub Assistant Registrar(CS)

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To:

1.The District Collector,
Virudhunagar, Virudhunagar District.

2.The Tahsildar,
Vembakottai Taluk, Virudhunagar District.
SMA/11/12/19/2P/3C

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