



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.07.2020

CORAM:

THE HONOURABLE MR.JUSTICE **G.R.SWAMINATHAN**

W.P. (MD)No.7562 of 2017

and

W.M.P. (MD)Nos.5905, 5906 and 8220 of 2017

WEB COPY

S.Sankarapandian

... Petitioner

Vs

1.The Forest Ranger,
Kovilpatti Forest Range,
Kovilpatti,
Thoothukudi District.

2.The Tahsildar,
Kovilpatti Taluk,
Thoothukudi District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records relating to the impugned eviction notice dated 23.03.2017 issued by the 1st respondent and quash the same as illegal and arbitrary.

For Petitioner : Mr.G.Thalaimutharasu

For Respondents : Mrs.Srimathy

Special Government Pleader

O R D E R

Heard the learned counsel on either side.

2.The petitioner challenges the impugned eviction notice issued by the first respondent under the provision of Tamil Nadu Forest Act, 1882. The petitioner's counsel points out that the petitioner was assigned free house site patta measuring 3 cents of land vide order dated 30.09.1994 passed by the second respondent and that he has put up construction only in the assigned land. The first respondent in his counter affidavit would however claim that the petitioner has not confined himself to the assigned land but committed encroachment beyond the same and that encroachment of forest land cannot be permitted.

3.The petitioner's counsel would rebut by pointing out that till date no survey has been conducted. He would also contend that the impugned eviction notice is bereft of particulars and it does not mention any survey number.

4.I fond considerable force in the stand taken by the



petitioner's counsel. I had a look at the impugned eviction notice. It does not even mention the survey number which is alleged to have been encroached by the petitioner herein. Any order passed by an Administrative Authority ought to have full particulars. If the proceedings are vague, the noticee cannot even defend himself appropriately. On the ground of vagueness, the impugned eviction notice is quashed. Liberty is however given to the respondents to take action, if the petitioner had committed any encroachment. If the petitioner stays within the assigned land, then of course he cannot be said to be an encroacher. As rightly pointed by the petitioner's counsel, to find out if the petitioner had committed encroachment, there has to be proper survey. Without carrying out such survey exercise and without furnishing full particulars, the first respondent cannot take any coercive action against the petitioner. Of course, the first respondent can take action as per law. The writ petition is allowed accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:

1.The Forest Ranger,
Kovilpatti Forest Range,
Kovilpatti,Thoothukudi District.

2.The Tahsildar,
Kovilpatti Taluk,
Thoothukudi District.

W.P. (MD)No.7562 of 2017

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SMA/30/07/2020/2P/3C