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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM  
and  
THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

W.P.No.20874 of 2021

S.Jaishankar

...Petitioner

Vs.

1. The District Collector,  
Collectorate Building,  
Namakkal District.
2. The Revenue Divisional Officer,  
Collectorate Buildings,  
Namakkal.
3. The Revenue Inspector,  
Keerambur,  
Namakkal District.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus to call for the records of the third respondent dated 01.09.2021 and quash the same and consequently, direct the respondents not to interfere with the peaceful possession and enjoyment of the property bearing S.F.No.116/3, Vettuvampalayam Village, Keerambur, Namakkal District.

For petitioner : Mr.N.Umapathi

For respondents : Mrs.Akila Rajendran  
Govt. Counsel

ORDER

(The Order of the Court was made by K.KALYANASUNDARAM,J)

Mrs.Akila Rajendran, learned Government Counsel takes notice for the respondents. By consent, this writ petition is taken up for final disposal.



2.This writ petition has been filed challenging the order of the third respondent dated 01.09.2021 and seeking consequential direction to the respondents not to interfere with the peaceful possession and enjoyment of the property bearing S.F.No.116/3, Vettuvampalayam Village, Keerambur, Namakkal District.

3.The petitioner would state that the property in S.F.No.116/1, 2, 4, 5, 6, 7, 12, 13A, 13B, 116/15, 16, 117/4 etc., situated at Vettuvampalayam Village, Keerambur Post, Namakkal District have been in possession and enjoyment of the petitioner's family by virtue of sale deeds and settlement deeds. It is stated that S.F.No.116/3 is classified as "Grmanatham Land" to an extent of 0.10 Ares. The said property has been in possession and enjoyment of the petitioner's family and they have also put up a construction in that area.

4.The learned counsel for the petitioner Mr.N.Umapathi by placing reliance on the decisions reported in 1993(1) MLJ 472 (A.Sankaralingam vs. Arunachala Reddiyar and others), 1998(3) L.W. 603 (Thillaivanam A.K. vs. District Collector, Chengai Anna District), 2006(3) L.W. 361 (A.R.Meenakshi vs. State of Tamil Nadu) and 2012(2) CTC 315 (State of Tamil Nadu vs. Madasami), would argue that the respondents have no authority to issue a notice under Section 7 of the Land Encroachment Act. It is also stated that in respect of the same property, a civil Suit O.S.No.116 of 2021 is pending before the District Munsif Court, Namakkal. According to the learned counsel, the notice issued under Section 7 of the Land Encroachment Act is liable to be quashed since the third respondent has no authority to issue the same.

5.Per contra, the learned Government Counsel appearing for the respondents Mr.Akila Rajendran would state that the third respondent has issued the impugned notice, for which, the petitioner has also submitted a reply and the third respondent is ready to consider the case of the petitioner and pass orders in accordance with law.

6.Considering the facts and circumstances of the case and the fact that the petitioner has also submitted a reply for the notice issued by the third respondent, the third respondent is directed to consider the case of the petitioner and pass orders on merits and in accordance with law, after providing opportunity of hearing to the petitioner as well as all the necessary parties. Till then, the respondents shall not precipitate the matter.



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7. With the above direction, this writ petition is disposed of. No costs.

Sd/-  
Assistant Registrar (CS VII)

//True Copy//

Sub Assistant Registrar

skn

To

1. The District Collector,  
Collectorate Building,  
Namakkal District.
2. The Revenue Divisional Officer,  
Collectorate Buildings,  
Namakkal.
3. The Revenue Inspector,  
Keerambur,  
Namakkal District.

+1 cc to Mr. N. Umapathi, Advocate Sr. No. 50398  
+1 cc to the Government Pleader, Sr. No. 51259

W.P.No.20874 of 2021

KV[co]  
NSK 25/10/2021