



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:07.12.2021

CORAM :

THE HON'BLE MR.MUNISHWAR NATH BHANDARI,
ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE P.D.AUDIKESAVALU

W.P.No.21896 of 2021

G.James Martin Amalraj

.. Petitioner

Vs.

1. The District Collector
Master Plan Complex NH 205
Chennai-Tiruttani Highways
Thiruvallur - 602 001.
2. The District Revenue Officer
Master Plan Complex NH 205
Chennai-Tiruttani Highways
Thiruvallur - 602 001.
3. The Tahsildar
Taluk Office, Ettima Nagar
Poonamallee Taluk
Thiruvallur District.
4. The Revenue Inspector
Poonamallee
Chennai - 600 056.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for a writ of certiorarified mandamus to call for the records relating to the impugned notice made in Na.Ka.No.2658/2020/AA1, dated 30.9.2021 by the third respondent, to quash the same and to direct the respondents not to interfere with the petitioner's peaceful possession enjoyment of the patta land measuring an extent of 879 sq.ft. bearing Plot No.145, K.G.T.Nagar comprised in Survey No.62/2 part, Goparasanallur Village, Poonamallee Taluk, Thiruvallur District.

For the Petitioner : Mr.A.Saravanan

For the Respondents : Mrs.R.Anitha
Special Government Pleader



ORDER
(Order of the Court was made by
the Hon'ble Acting Chief Justice)

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The writ petition has been filed to challenge the notice dated 30.9.2021 issued under Sections 6 and 7 of the Tamil Nadu Land Encroachment Act, 1905.

2. Learned counsel for the petitioner submits that notice under Section 7 of the Act of 1905 is not sustainable in respect of patta land and, therefore, it deserves to be quashed. Referring to the facts of the case, learned counsel submits that a patta was issued in favour of the petitioner for the land in Survey No.62/2. A copy of the patta has been enclosed along with the writ petition. The respondents have no authority to issue notice under Section 7 of the Act of 1905 in reference to the patta land of the petitioner.

3. Learned Special Government Pleader has contested the writ petition and submits that notice under Section 7 of the Act has not been issued in reference to patta land, but in respect of the land encroached by the petitioner. The patta has been issued for the land in Survey No.62/2, whereas the petitioner has encroached the land in Survey No.62/1. In view of the above, no illegality has been committed by them, rather the respondents were within their authority to issue the notice to remove the encroachment by following the procedure prescribed under the Act of 1905. It is further submitted that pending the writ petition, the respondents have also passed an order under Section 6 of the Act of 1905.

4. We have considered the rival submissions and perused the records.

5. The patta issued to the petitioner is in respect of the land in Survey No.62/2, whereas the notice under Section 7 of the Act of 1905 has been issued in respect of the land in Survey No.62/1, which may be the neighbouring land. If the petitioner has made encroachment of the land going beyond the boundaries of the patta land, the respondents were within their rights to invoke Section 7 of the Act of 1905 to remove the encroachment.

6. In view of the above, we do not find that notice has been issued in respect of the patta land in favour of the petitioner, but it is for the land other than the patta land. Accordingly, we do not find any reason to interfere with the notice issued under Section 7 of the Act of 1905. The respondents would be at liberty to proceed with the removal of the encroachment pursuant to the order passed under Section 6 of the Act of 1905. It is, however, made clear that while removing the encroachment from the



land in Survey No.62/1, a survey may be made to protect the right of the petitioner in respect of his patta land in Survey No.62/2.

The writ petition is dismissed. No costs. Consequently, W.M.P.No.23099 of 2021 is closed.

Sd/-
Assistant Registrar (CS-V)

// True Copy //

Sub Assistant Registrar

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To:

1. The District Collector
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Thiruvallur District.
4. The Revenue Inspector
Poonamallee
Chennai - 600 056.

+1cc to Mr.A.Saravanan, Advocate SR.No.64526

+1cc to Government Pleader, in SR.No.65349

[08/04/2022]

W.P.No.21896 of 2021

SR(CO)
CB(13/12/2021)