



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.02.2021

CORAM:

THE HONOURABLE MR.JUSTICE **M.M.SUNDRESH**

AND

THE HONOURABLE MRS.JUSTICE **S.ANANTHI**

W.P. (MD) No.2179 of 2021

and

W.M.P. (MD) Nos.1820 & 1821 of 2021

Eswaran

: Petitioner

Vs.

1.The District Collector,
Dindigul District,
Dindigul.

2.The Tahsildar,
Kodaikanal Taluk,
Kodaikanal.

3.The Revenue Inspector,
Kodaikanal Taluk,
Kodaikanal.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorari calling for records relating to the impugned order of eviction of the third respondent dated 23.01.2020 and quash the same as illegal and consequently, forbear the respondents from in any way interfering with the petitioner's possession in the light of the judgment and decree in O.S.No.235 of 2004, dated 19.12.2012.

For Petitioner : Mr.Mahaboob Athiff

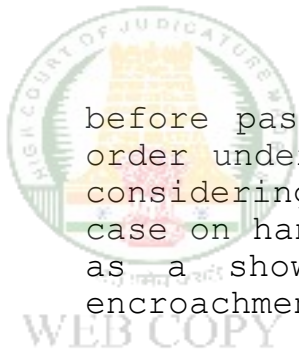
For Respondents : Mr.K.P.Krishnadoss,
Special Government Pleader

ORDER

(Order of the Court was made by **M.M.SUNDRESH, J.**)

The petitioner has come forward to file this writ petition challenging the impugned order, which, though indicates as if it is a show cause notice, is only a final order. On perusal also, we find that a final order has been passed, asking the petitioner to remove the encroachment.

2. While invoking the provisions of the Land Encroachment Act, 1905, a show cause notice is mandatory as per Section 7 of the Act,
<https://hcservices/ecourts.gov.in/hcservices/>



before passing a final order under Section 6 of the Act. The said order under Section 6 of the Act will have to be passed, only after considering the reply to be given by the alleged encroacher. In the case on hand, straight away, an order has been passed, though styled as a show cause notice, asking the petitioner to remove the encroachment.

3. Though the learned Counsel appearing for the petitioner submitted that there is a decree in their favour, the learned Special Government Pleader appearing for the respondents submitted that the same is not binding on them. Be that as it may, we are not inclined to go into the said contention, as we are inclined to set aside the impugned order on the ground of procedural violation.

4. Accordingly, the impugned notice dated 23.01.2020 issued by the third respondent is set aside, giving liberty to the respondents to issue fresh show cause notice under Section 7 of the Act and to proceed further, in accordance with law.

5. In fine, this writ petition stands allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

gk

To

1.The District Collector,
Dindigul District,
Dindigul.

2.The Tahsildar,
Kodaikanal Taluk,
Kodaikanal.

3.The Revenue Inspector,
Kodaikanal Taluk,
Kodaikanal.

W.P. (MD) No.2179 of 2021
11.02.2021

KG (CO)

KK (24.02.2021) 2P 4C