



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : **29.07.2021**

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, THE CHIEF JUSTICE

AND

The HON'BLE MRS.JUSTICE S.ANANTHI

W.P. (MD) No.3493 of 2021

and

W.M.P. (MD) .No.2834 of 2021

K.S.Durairaj

.. Petitioner

Vs

1.The District Collector,
Theni District, Theni.

2.The President,
Seepalakottai Panchayat,
Chinnamanur Panchayat Union,
Theni District.

3.The Block Development Officer,
Chinnamanur Panchayat Union,
Theni District.

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, for the issuance of Writ of Certiorari, calling for the records relating to the second respondent in his proceedings in Na.Ka.No.1915/2019/T2, dated 29.08.2019 dated 21.01.2021 and quash the same.

For Petitioner
For Respondents

: Mr.PT.S.Narendravasan
: Mr.A.K.Manikkam for R1 to R3
Standing Counsel for Government

ORDER

[Order of the Court was made by

The Hon'ble Chief Justice]

This is one of the cases where the petitioner, a possible encroacher on revenue land or Hindu Religious and Charitable Endowment Department controlled property, complains of a notice dated January 21, 2021 by which he has been requested to vacate the land on the ground that he is an encroacher.

2.The principal grievance of the petitioner is that an inquiry is to be undertaken before a finding of a person being an encroacher is rendered.

3.It is noticed that in several cases where revenue officials tend to be mixed up with the encroachers, deliberate procedural lapses are shown to aid the encroacher to avoid the removal of encroachment.



Surely, no reasonable court will permit any notice of eviction to be implemented without the petitioner being required to show cause first.

4.However, in certain cases, when the encroachment appears to be apparent and obvious, the show-cause notice may not be necessary though reasonable time should be afforded for the encroacher to move away. Such reasonable time cannot be in months or years but should, ordinarily, be in days or a few weeks.

5.As much as revenue land and waterbodies need to be protected, it cannot be lost sight of that a large section of the population may not have any landed property or roof over their heads. While adequate arrangements should have been made, now that the country approaches its 75th Independence Day, so that the basic amenities are available to citizens, the policy-makers have, however, failed to provide the same and critics of the system tend to suggest that it may be deliberate that a class of have-nots exist in society for another class of super-haves to make merry. However, that may be besides the point, even if this matter has been filed in public interest.

6.The petitioner is permitted to respond to the impugned notice dated January 21, 2021 within a fortnight from date making out the petitioner's defence and furnishing copies of documents of whatever may be in the petitioner's possession to justify his occupation of the land, whereupon the official respondents should take appropriate steps in accordance with law and rid the land of encroachment if the petitioner is found to be an encroacher.

7.W.P(MD)No.3493 of 2021 is disposed of, by restraining the respondent authorities from disturbing the petitioner's possession of the premises or land in question for a period of ten weeks from date or earlier disposal of the matter after receiving the petitioner's representation within a fortnight from date. It is made clear that if the petitioner's representation against the letter of January 21, 2021 is not received within the fortnight as permitted by this order, the respondent authorities will be entitled to proceed as if the petitioner has no defence and has nothing to cite in support of his occupation of the relevant land. WMP(MD)No.2834 of 2021 is closed.

8.There will be no order as to costs.

Sd/-

Assistant Registrar (CRL)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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

<https://hcservices.ecourts.gov.in/hcservices/>



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 District Collector,
Theni District, Theni.

2.The President,
Seepalakottai Panchayat,
Chinnamanur Panchayat Union,
Theni District.

3.The Block Development Officer,
Chinnamanur Panchayat Union,
Theni District.

+1CC to Mr.Narendra Vasan, Advocate (SR24517)

+1CC to The Special Government Pleader,
Madurai Bench of Madras High Court,
Madurai. (SR24917)

W.P. (MD) No.3493 of 2021
29.07.2021

KMK

RS (06.08.2021) 3P-6C