



WEB COPY

W.P/[MD]/No.10895 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.P.[MD]No.10895 of 2021

and

W.M.P.[MD]No.8561 of 2021

D.Kasthuri

... Petitioner

Vs.

1.The Collector,
Virudhunagar District, Virudhunagar.

2.The District Revenue Officer,
O/o. The Collectorate Complex,
Virudhunagar District, Virudhunagar.

3.The Revenue Divisional Officer,
O/o. The Revenue Divisional Officer,
Aruppukkottai, Virudhunagar District.

4.The Block Development Officer,
O/o. The Block Development Officer,
College Road, Virudhunagar District.

5.The Revenue Tahsildar,
O/o. The Revenue Tahsildar, Virudhunagar.

6.The Village Administrative Officer,
Pavali Village,
Virudhunagar Taluk, Virudhunagar District. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records of the impugned eviction notice in Na.Ka.Aa.No.1/3722/2019 in his proceedings by the fifth respondent dated 23.06.2021 and quash the same as illegal and consequently direct the fifth respondent not to remove the alleged encroachment from the petitioner's dwelling house, situated at Pavali Panchayat, Pavali Village, Virudhunagar Taluk, Virudhunagar District, comprising in the Survey No.286/5 consisting of 0.78 sq. meter without following the due process of law.

For Petitioner

: Mr.L.Prabhu

For Respondents 1to3, 5 & 6

: Mr.R.Baskaran

Standing Counsel for Government

For Respondent No.4

: Mr.A.Baskaran

Standing Counsel for Government

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



O R D E R

[Order of the Court was made by **T.S.SIVAGNANAM, J.**]

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With the consent on either side, this Writ Petition itself is taken up for final disposal.

2.We have heard Mr.L.Prabhu, learned Counsel appearing for the petitioner, Mr.R.Baskaran, learned Standing Counsel for Government appearing for the respondents 1 to 3, 5 & 6 and Mr.A.Baskaran, learned Standing Counsel for Government appearing for the fourth respondent.

3.The petitioner has challenged the proceedings of the respondent dated 23.06.2021, which is a notice of eviction under Section 6 of the Tamil Nadu Land Encroachment Act, 1905, stating that the petitioner is not an encroacher, but he is the pattathar. Before issuing the impugned eviction notice, no notice under Section 7 of the Act was issued to the petitioner. Therefore, the proceedings are in violation of principles of natural justice and also against the provisions of the Act.

4.Considering the submissions made by the learned Counsel for the petitioner, we direct the petitioner to consider the impugned notice as a show cause notice and submit his objections / reply within a period of fifteen [15] days from the date of receipt of a copy of this order. Upon receipt of the reply, the third respondent is directed to conduct an enquiry into the matter, examine the documents that the petitioner may produce and offer an opportunity of personal hearing to the petitioner or her authorised representatives and pass a speaking order within a period of fifteen [15] days from the date of receipt on which enquiry is completed. Till then, the petitioner shall not be evicted from the land in question.

5.Accordingly, the Writ Petition stands disposed of. However, there shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(AE)

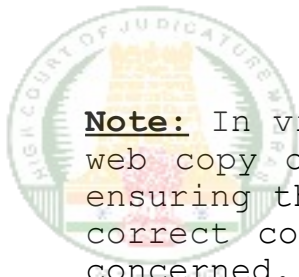
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/ /2021

Sub Assistant Registrar(CS)

MR

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



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.

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To

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Virudhunagar.
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O/o. The Collectorate Complex,
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Pavali Village,
Virudhunagar Taluk,
Virudhunagar District.

+1 CC to M/s.L.PRABHU, Advocate (SR-21079[F] dated 02/07/2021)

+1 CC to M/s.A.BASKARAN, Advocate (SR-21087[F] dated 02/07/2021)

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RD(15.07.2021) 3P 9C