



WEB COPY

W.P.(MD).No.11057 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.07.2021

CORAM :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

AND

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.P.(MD) No.11057 of 2021

and

W.M.P (MD) .No.8682 of 2021

KGandhi

.. Petitioner

Vs

1. The District Collector,
Office of District Collector,
Sivagangai District, Sivagangai.
2. The Sub Collector,
Office of Sub Collector,
Devakottai, Sivagangai District.
3. The Tahsildar,
Thirupathur Tahsildar Office,
Thirupathur Taluk,
Sivagangai District.
4. M.Veeraiya

... Respondents

PRAYER: Petition under Article 226 of the Constitution of India seeking issuance of a writ of Certiorarified Mandamus to call for the records of the third respondent's impugned notice in Na.Ka.No.A6/1419/2021 dated 28.06.2021 and quash the same as devoid of merits consequently directing the respondent Nos.1 to 3 to grant patta to the petitioner for the land in her possession enjoyment in Survey No.17/1 an extent of 95 cents in Karenthelpatti Village, Thirukalapatti Panchayat, Mathavarayanpatti Group, Thirupathur Taluk, Sivagangai District by considering her representation dated 08.05.2021, within the period stipulated by this Court.

For Petitioner : Mr.A.Haja Mohideen

For respondents : Mr.R.Baskaran,
Standing Counsel for Government
for R1 to R3
Mr.H.Velavadhas for R4



ORDER

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

Heard Mr.A.Haja Mohideen, learned counsel appearing for the petitioner, Mr.R.Baskaran, learned Standing Counsel for Government, appearing for the respondent Nos.1 to 3 and Mr.H.Velavadhas, learned counsel for the fourth respondent.

2.This Writ Petition challenges the notice issued by the third respondent dated 28.06.2021, on the ground that without following the procedure under the Tamil Nadu Land Encroachment Act, 1905, the eviction proceedings have been initiated.

3.On a perusal of the impugned notice, it appears that the impugned notice has been issued only based on the direction issued by this Court in W.P.(MD) No.6571 of 2021 dated 24.03.2021, filed by the 4th respondent herein. In the said Writ Petition, this Court has directed the respondent No.3 to take appropriate action in accordance with law to remove the encroachment. Therefore, necessarily the procedure under the Tamil Nadu Land Encroachment Act, 1905 has to be followed. However, we wish to point out that the extent of land encroached appears to be huge. Apart from that, it is not as if the petitioner has not received any earlier notice as pointed out by the learned counsel for the fourth respondent. Even prior to the filing of the Writ Petition by the fourth respondent in W.P.(MD) No.6571 of 2021, notice was issued for eviction. But, however, no further action was initiated. A suit was filed by the petitioner in O.S.No.14 of 2021 on the file of the District Munsif Court, Thirupathur and somehow she was able to restrict the authorities from removing the encroachment.

4.Mr.R.Baskaran, learned Standing Counsel for Government on instructions submitted that the authorities have realized the mistake and on 03.07.2021 notice under Section 7 of the Tamil Nadu Land Encroachment Act, 1905 has been issued to the petitioner and a copy of which has been marked to the fourth respondent.

5.In the light of the same, the Writ Petition is allowed and the impugned notice of the third respondent dated 28.06.2021 is set aside and the petitioner is directed to file her objection to the notice dated 03.07.2021, not later than 19.07.2021. It is open to the fourth respondent to place all the materials before the third respondent to prove his case that the petitioner is an encroacher. After conducting an enquiry by affording an opportunity of personal hearing to the petitioner and the fourth respondent, the third respondent shall pass a speaking order on



merits and in accordance with law not later than 30.07.2021. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-I)

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// True Copy //

/ /2021

Sub Assistant Registrar(CS)

sj

Note :

1. 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.

To:

1. The District Collector,
Office of District Collector,
Sivagangai District, Sivagangai.
2. The Sub Collector,
Office of Sub Collector,
Devakottai, Sivagangai District.
3. The Tahsildar,
Thirupathur Tahsildar Office,
Thirupathur Taluk,
Sivagangai District.

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