



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAI SWAMY

AND

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

W.P(MD)No.15427 of 2021

and

W.M.P(MD)No.12333 of 2021

Kanagaraaj

... Petitioner

Vs.

1.The District Collector,  
Tirunelveli District,  
Tirunelveli.

2.The Tahsildar,  
Rathapuram Taluk,  
Tirunelveli District.

3.The Revenue Inspector,  
Office of Revenue Inspector,  
Samugarengapuram and Post,  
Rathapuram Taluk,  
Tirunelveli District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to forbear them from invoking the Tamil Nadu Land Encroachment Act, 1905, to evict the petitioner from the land admeasuring hectare 0.18.5 in Survey No.785/2C at Samugarengapuram Village, Radhapuram Taluk, Tirunelveli District, since it is the petitioner's patta land having patta No.3751 by considering the petitioner's explanation dated 19.08.2021 as his representation.

|                 |                                         |
|-----------------|-----------------------------------------|
| For Petitioner  | : Mr.S.R.Anbarasu                       |
| For Respondents | : Mr.B.Saravanan<br>Government Advocate |

**ORDER**

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

The petitioner has filed the above Writ Petition to issue a Writ of Mandamus, directing the respondents to forbear them from invoking the Tamil Nadu Land Encroachment Act, 1905, to evict the petitioner from the land admeasuring to an extent of 0.18.5 hectare



in Survey No.785/2C at Samugarengapuram Village, Radhapuram Taluk, Tirunelveli District, since it is the petitioner's patta land having patta No.3751 by considering the petitioner's explanation dated 19.08.2021.

2.Admittedly, the petitioner has not yet been issued with any Section 6 Notice under the Tamil Nadu Land Encroachment Act, 1905. The second respondent has only issued Section 7 notice and the petitioner has given his reply, dated 19.08.2021.

3.It is settled position that a notice under Section 7 cannot be challenged by the alleged encroacher. The cause of action for filing an appeal under Section 10 of the Act shall arise only after issuance of notice under Section 6 of the Act. When the second respondent has not yet passed Section 6 order, the prayer sought for in the Writ Petition is pre-mature and it is liable to be dismissed. Accordingly, the Writ Petition is dismissed. However, in the event of the second respondent passing an order under Section 6 of the Act, it is open to the petitioner to file an appeal under Section 10 of the Tamil Nadu Land Encroachment Act, 1905, in accordance with law. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (W)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

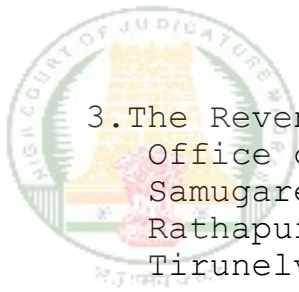
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**Note** :In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

1.The District Collector,  
Tirunelveli District,  
Tirunelveli.

2.The Tahsildar,  
Rathapuram Taluk,  
Tirunelveli District.



3.The Revenue Inspector,  
Office of Revenue Inspector,  
Samugarengapuram and Post,  
Rathapuram Taluk,  
Tirunelveli District.

WEB COPY

+1 CC to M/s.SPL GP ( SR-27631[F] dated 31/08/2021 )

**W.P (MD) No.15427 of 2021**  
**27.08.2021**

MGJ(07.09.2021) 3P 5C