



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.12.2021

CORAM:

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

AND

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P(MD)No.16467 of 2021

and W.M.P.(MD) No.13345 of 2021

WEB COPY

Murugan

... Petitioner

Vs.

1.The District Collector,
Sivagangai District,
Sivagangai.

2.The Tahsildar,
Taluk Office,
Thirupuvanam,
Sivagangai District.

3.The Block Development Officer (V.P.),
Thirupuvanam,
Sivagangai District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari, calling for the records relating to the impugned order made in Na.Ka.A2/1732/2021, dated 23.08.2021, on the file of the 3rd respondent herein and to quash the same as illegal and arbitrary.

For Petitioner : Mr.M.Thirunavukkarasu

For Respondents : Mr.B.Saravanan

Additional Government Pleader

O R D E R

(Order of the Court was made by PUSHPA SATHYANARAYANA,J.)

The Writ Petition has been filed challenging the notice issued by the Block Development Officer (Village Panchyats), Thirupuvanam, Sivagangai District, Na.Ka.A2/1732/2021, dated 23.08.2021, calling upon the petitioner to vacate the premises, alleging that he had encroached upon S.No.176/4, Keeladi Village, which is a kanmoi poramboke within 15 days. The notice further states that failing which, the encroachment will be removed under the Tamil Nadu Land Encroachment Act, 1905.

2.Mr.B.Saravanan, learned Additional Government Pleader, accepts notice on behalf of the respondents.



3.By consent of both sides, this Writ Petition itself is taken up for final disposal at the time of admission.

4.The grievance of the petitioner is that his father was in continuous possession and enjoyment of the property for 40 years and after his demise he is in possession and enjoyment of the property by constructing the house and he has not been given a show cause notice under Section 7 of the Tamil Nadu Land Encroachment Act, 1905, so as to give his explanation and the impugned order has been passed in violation of Sections 6 and 7 of the said Act.

5.When this Court put a question to the learned Additional Government Pleader as to whether they are going to issue notice under Section 7 of the Act, calling for explanation from the encroacher, the answer was in the negative.

6.After issuing notice under Section 7 of the Tamil Nadu Land Encroachment Act, an enquiry, which is summary in nature, has to be conducted and thereafter only order of eviction has to be passed. Since the statutory provisions are violated, we are inclined to set aside the impugned order.

7.Accordingly, the Writ Petition is allowed and the impugned order of the third respondent in Na.Ka.A2/1732/2021, dated 23.08.2021, is set aside. However, it is open to the respondents to issue fresh notice, following the procedure contemplated under the Tamil Nadu Land Encroachment Act, 1905, and evict the petitioner, if he is an encroacher. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

sj

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,
Sivagangai District, Sivagangai.

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



2.The Tahsildar,
Taluk Office,
Thirupuvanam,
Sivagangai District.

3.The Block Development Officer (V.P.),
Thirupuvanam,
Sivagangai District.

+1 CC to M/s.M.THIRUNAVUKKARASU, Advocate (SR-36824[F]
dated 01/12/2021)

+1 CC to M/s.SPL GP (SR-36983[F] dated 02/12/2021)

W.P (MD) No.16467 of 2021

01.12.2021

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