



WEB COPY

W.P(MD)No.16812 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAI SWAMY

AND

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

W.P(MD)No.16812 of 2021

and

W.M.P(MD)Nos.13694 and 13696 of 2021

M/s.Officer's Recreation Club,
Represented by its Secretary,
Mr.T.Krishnamoorthy, S/o.Thirumalai,
20 C, Extension, Kudil Road,
Turaiyur, Trichy - 621 010.

... Petitioner

Vs.

- 1.The District Collector,
Trichy District.
- 2.The Revenue Divisional Officer,
Musiri Revenue Divisional Officer,
Musiri, Trichy District.
- 3.The Tahsildar,
Taluk Office,
Turaiyur Taluk, Trichy District.
- 4.The Deputy Tahsildar,
Taluk Office,
Turaiyur Taluk, Trichy District.
- 5.The Revenue Inspector,
Turaiyur Taluk,
Trichy District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned eviction order, passed by the third respondent dated 31.07.2021, which was affixed on the club premises on 08.09.2021, under Section 6 of the Tamil Nadu Land Encroachment Act, 1905 and quash the same as being arbitrary, illegal and without application of mind and consequently issue a direction to the respondents not to interfere with the peaceful possession and enjoyment of the land in Survey No.243/2 in Thuraiyur, Tiruchirappalli District.



For Petitioner

: Mr.R.Singaravelan,
Senior Counsel
for Mr.D.Selvanayagam

For Respondents

: Mr.B.Saravanan
Government Advocate

WEB COPY

ORDER

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

The petitioner has filed the above Writ Petition to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned eviction order passed by the third respondent dated 31.07.2021 under Section 6 of the Tamil Nadu Land Encroachment Act, 1905 and to quash the same and consequently directing the respondents not to interfere with the peaceful possession and enjoyment of the land in Survey No.243/2 in Thuraiyur, Tiruchirappalli District.

2.Mr.R.Singaravelan, learned Senior counsel representing Mr.D.Selvanayagam, learned counsel appearing for the petitioner submitted that the third respondent, the Tahsildar issued a notice under Section 7 of the Tamil Nadu Land Encroachment Act, 1905, calling upon the petitioner to give their reply on or before 02.08.2021, however, the third respondent passed the final order under Section 6 of the Tamil Nadu Land Encroachment Act, 1905 on 31.07.2021 itself. The learned Senior counsel further submitted that when the third respondent had granted time till 02.08.2021 to the petitioner to give their reply even without waiting for the expiry of the time granted in Section 7 notice, passed the final order on 31.07.2021 itself, which is erroneous and liable to be set aside.

3.Mr.B.Saravanan, learned Government Advocate taking notice for the respondents submitted that the third respondent may be directed to pass a fresh order under Section 6 of the Act, after taking into consideration the explanation given by the petitioner.

4.Though the petitioner has got remedy by way of an appeal under Section 10 of the Tamil Nadu Land Encroachment Act, 1905, since the order passed under Section 6 of the Act by the third respondent is patently erroneous, we are interfering with the order passed under Section 6 of the Act and set aside the same.

5.Accordingly, the order dated 31.07.2021 passed under Section 6 of the Tamil Nadu Land Encroachment Act, 1905 is set aside. We direct the third respondent to consider the petitioner's explanation sent to the third respondent on 14.09.2021 and pass an order afresh under Section 6 of the Tamil Nadu Encroachment Act, 1905, after giving an opportunity of hearing to the petitioner.



6.With these observations, the Writ Petition is allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

WEB COPY

// True Copy //

Sd/-

Assistant Registrar (CS-I)

/ /2021

Sub Assistant Registrar(CS)

indu/ps

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,
Trichy District.
- 2.The Revenue Divisional Officer,
Musiri Revenue Divisional Officer,
Musiri, Trichy District.
- 3.The Tahsildar,
Taluk Office,
Turaiyur Taluk, Trichy District.
- 4.The Deputy Tahsildar,
Taluk Office,
Turaiyur Taluk, Trichy District.
- 5.The Revenue Inspector,
Turaiyur Taluk, Trichy District.

+1 CC to M/s.D.SELVANAYAGAM, Advocate (SR-29536[F] dated 17/09/2021)

+1 CC to M/s.SPL. GP (SR-29565[F] dated 20/09/2021)

W.P (MD) No.16812 of 2021

17.09.2021

GC(27.09.2021) 3P 8C