



WEB COPY

W.P.(MD) No.5204 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.07.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, THE CHIEF JUSTICE

AND

The HON'BLE MR.JUSTICE T.S.SIVAGNANAM

W.P.(MD) No.5204 of 2018

and

W.M.P.(MD) Nos.5192 and 7552 of 2018

S.Santhanamary

.. Petitioner

Vs

1. The District Collector,
Tirunelveli District,
Tirunelveli.
2. The Tahsildar,
Palayamkottai Taluk,
Tirunelveli District.
3. The Block Development Officer/
Special Officer,
Manappadai Veedu Panchayat,
Tirunelveli District.
4. Mannapad Veedu Panchayat,
Manappadai Veedu,
Tirunelveli District,
through its Executive Officer.

5. Arockiasamy

.. Respondents

(R5 is impleaded Vide Court order,
dated 11.06.2019 in W.M.P.(MD) No.7552 of 2018)

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, for the issuance of Writ of Certiorari, to call for the records relating to the impugned order, dated 05.03.2018 passed by the second respondent and quash the same as illegal.

For Petitioner

: Mr.M.P.Senthil

For Respondents

: Mr.R.Baskaran
Standing Counsel for Government
For R1 to R4

: Mr.S.Balamurugan
For R5



ORDER

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

This writ petition has been filed challenging an order of eviction passed under Section 6 of the Tamil Nadu Land Encroachment Act, 2005.

2. The primary ground on which the impugned order has been challenged is that it is a violation of principles of natural justice and that the impugned eviction order is an knee-jerk action on account of the direction issued in Contempt Petition (MD) No.2115 of 2017 in W.P.(MD) No.11167 of 2017 dated 08.11.2017 filed by the fifth respondent. The fifth respondent filed the said writ petition as a public interest litigant alleging that the petitioner before us is an encroacher. The writ petition was disposed of by directing action to be initiated in accordance with law. Alleging that the order has not been complied with, the contempt petition was filed, in which, it was reported by the official respondents that survey has been conducted and that two encroachers have been identified and notice under Section 7 of the Act was issued. However, without affording reasonable opportunity to the petitioner and without considering his objections, the impugned order has been passed. These facts have been recorded while entertaining the writ petition and granting an order of interim stay by order dated March 12, 2018.

3. In the light of the above, we direct the petitioner to treat the impugned order dated 05.03.2018 as a show cause notice and submit his detailed objections, along with the documents which he proposes to rely on and on receipt of the objections, the second respondent shall conduct an inquiry, after notice to the petitioner as well as the fifth respondent herein and pass a reasoned order on merits and in accordance with law. The interim order, granted at the time when the writ petition was entertained, shall continue till the above direction is complied with.

4. W.P.(MD) No.5204 of 2018 is disposed of. Consequently, W.M.P (MD) No.5192 of 7552 of 2018 are closed. There will be no order as to costs.

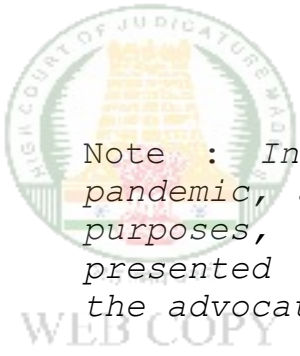
Sd/-

Assistant Registrar (P&A)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



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,
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Tirunelveli.
2. The Tahsildar,
Palayamkottai Taluk,
Tirunelveli District.
3. The Block Development Officer/
Special Officer,
Manappadai Veedu Panchayat,
Tirunelveli District.
4. The Executive Officer,
Mannapad Veedu Panchayat,
Manappadai Veedu,
Tirunelveli District.

+1 CC to M/s.M.P.SENTHIL, Advocate (SR-24823[F] dated 30/07/2021)

W.P. (MD) No.5204 of 2018

and

W.M.P. (MD) Nos.5192 and 7552 of 2018

30.07.2021

RK (06.08.2021) 3P 6C