



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.12.2021

CORAM:

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THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA
AND
THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P(MD)NO.19975 OF 2021

N.Subramani

:Petitioner

.vs.

1.The District Collector,
Tiruchirappalli Collectorate,
Tiruchirappalli.

2.The Revenue Divisional Officer,
Mannachanallur Taluk,
Tiruchirappalli.

3.The Tahsildar,
Mannachanallur Taluk,
Tiruchirappalli.

4.The Block Development Officer,
Mannachanallur Taluk,
Tiruchirappalli.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order in Notice Letter in Na.Ka.No.Thi.2/2854/2020, dated 17.08.2021 issued by the fourth respondent and to quash the same and further to direct the respondents to conduct an overall survey of the property comprised in S.No.82 within the time stipulated by this Court.

For Petitioner

:Mr.P.Parthiban

For Respondents

:Mr.B.Saravanan
Govt.Advocate



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O R D E R

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

The Writ Petition is filed challenging the notice in Na.Ka.No.Thi.2/2854/2020, dated 17.08.2021 issued by the fourth respondent and to quash the same.

2.Heard the learned counsel appearing on either side and perused the materials placed before this Court.

3.It appears that the Writ Petitioner attempted to dig for the purpose of constructing a septic tank in his patta land, which was objected to by certain people, which resulted in conducting a Peace Meeting in the presence of the Tahsildar, Mannachanallur Taluk, Tiruchirappalli. After hearing all the parties, in the Peace Committee Meeting, S.No.82 was decided to be surveyed by the Land Surveyor and if there are any encroachment, the encroachment should be removed. Till such time, the entire survey proceedings is over, it is resolved that no one should encroach upon the said land or to make any construction over the said survey number.The above decision was taken in 02.02.2021. It appears that when the survey was done, the Petitioner was not put on notice. The impugned order says that survey was done by the Land Surveyor in S.No.82 and this Writ Petitioner was found to be an encroacher to an extent of 0.00.17 ares by putting up a building.According to the Petitioner, neither the survey was done in his presence nor he was issued with a notice and when he is in possession in his own rights, he has been termed as an encroacher and the impugned notice is given. The impugned notice is also not in accordance with law, as whenever the eviction proceedings or removal of any encroachment is done, notice under Section 7 of the Tamil Nadu Land Encroachment Act has to be issued, after which, an enquiry which is summary in nature, has to be conducted under Section 6 of the above 'Act' and appropriate orders be passed .

4.In this case, the impugned order is issued under Section 6 of the Tamil Nadu Land Encroachment Act, 1905, without the show-cause notice under Section 7 of the 'Act' being issued. As there is irregularity in the act of the respondents and also infirmity in the order passed, we are inclined to set aside the order impugned herein and accordingly, the same is set aside. However, we direct the third respondent to conduct a land survey of S.No.82, Mannachanallur Taluk, Tiruchirappalli, after issuing notice to the Writ Petitioner and survey be done in his presence.



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5. With the above directions, the Writ Petition is allowed. No costs.

Sd/-

Assistant Registrar (AD I)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

vsn

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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Tiruchirappalli.
2. The Revenue Divisional Officer,
Mannachanallur Taluk,
Tiruchirappalli.
3. The Tahsildar,
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Tiruchirappalli.
4. The Block Development Officer,
Mannachanallur Taluk,
Tiruchirappalli.

+1 CC to M/s.R.BASKARAN, Advocate (SR-37472[F] dated 06/12/2021)

+1 CC to M/s.SPL GP (SR-37612[F] dated 07/12/2021)

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