



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.12.2021

CORAM:

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

AND

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P(MD)No.20803 of 2021
and W.M.P. (MD) No.17419 of 2021

G.Krishnamoorthy

... Petitioner

Vs.

- 1.The District Collector,
Virudhunagar District.
- 2.The District Revenue Officer,
Virudhunagar District.
- 3.The Tahsildar,
Virudhunagar Taluk,
Virudhunagar District.
- 4.The Revenue Inspector,
Onidipulinaickanoor Birkka,
Virudhunagar Taluk,
Virudhunagar District.
- 5.The Executive Officer,
O.Kovilpatti Village,
Sankaralingapuram Post,
Virudhunagar Taluk,
Virudhunagar District.
- 6.S.Angidisamy

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, calling for the records of the 4th respondent dated 05.10.2021, issued under Section 7 of the Tamilnadu Land Encroachment Act, 1905 to remove the encroachments made in S.No.1018/53 in Ondipulinaickanoor Village, Virudhunagar Taluk, Virudhunagar District and to quash the same as illegal and inconsequentialy direct the respondents 1 to 4 to consider and to pass orders on the petitioner's objection dated 18.10.2021 by providing fair opportunity of being heard to the petitioner by following the principles of natural justice.

For Petitioner : Mr.S.Sukumar

For Respondent Nos.1 : Mr.P.Thilakkumar
to 5 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 fourth respondent under Section 7 of the Tamilnadu Land Encroachment Act, 1905.

2.Heard Mr.P.Sukumar, learned counsel for the petitioner and Mr.P.Thilakkumar, learned Government Pleader, appearing for respondent Nos.1 to 5.

3.Section 7 of the Tamilnadu Land Encroachment Act, 1905, only contemplates the encroacher to show cause before a certain date why he should not be proceeded against under section 6 and the same should be served in the manner prescribed in section 25 of the Revenue Recovery Act, 1864. Though the notice impugned is styled as notice under Section 7, it is only a notice under Section 6, calling upon the petitioner to vacate the premises, failing which, the superstructure and any other construction on the land would be demolished and the articles inside would be seized.

4.When the matter was taken up for hearing, the learned Government Pleader appearing for respondent Nos.1 to 5 would agree that though the impugned notice is styled as Section 7 notice, it is only a notice under Section 6. Under Section 6, the forfeiture of the crops or summary eviction can be done only after holding summary enquiry into the facts of the case and if satisfied that possession was without just cause, then order of eviction can be passed. In the event of order is passed under Section 6(2), the same is appealable under Section 10 of the Act before the District Collector. Admittedly, the impugned order is a defective one and the same is liable to be set aside.

5.Accordingly, the Writ Petition is allowed and the impugned notice of the 4th respondent, dated 05.10.2021, is set aside. However, it is open to the 4th respondent to issue fresh notice, following the procedure contemplated under the Tamil Nadu Land Encroachment Act, 1905. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-I)

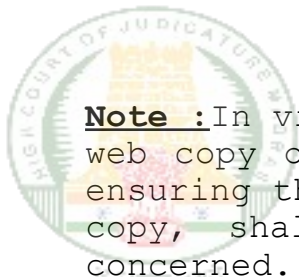
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/ /2021

Sub Assistant Registrar(CS)

Sj

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To

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Sankaralingapuram Post,
Virudhunagar Taluk,
Virudhunagar District.

+1 CC to M/s.S.SUKUMAR, Advocate (SR-37681[F] dated 07/12/2021)

+1 CC to M/s.SPL GP (SR-37608[F] dated 07/12/2021)

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