



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.11.2021

CORAM :

THE HONOURABLE TMT.JUSTICE PUSHPA SATHYANARAYANA

and

THE HONOURABLE THIRU.JUSTICE P.VELMURUGAN

W.P (MD)No.20859 of 2021

and

WMP (MD)No.17473 of 2021

WEB COPY

Roshna Begam

... Petitioner

vs.

1) The District Collector,
District Collector's Office,
Trichy-1,
Trichy District.

2) The District Revenue Officer,
D.R.O. Office,
District Collector's Office,
Trichy-1,
Trichy District.

3) The Tahsildar,
Taluk Office,
Marungapuri,
Trichy District.

... Respondents

Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to 3rd respondent proceedings made in Notice under section 6 of Land Encroachment Act, 1905, dated 28.10.2021, quash the same, and further direct the 3rd respondent to follow the procedure contemplated under Land Encroachment Act, 1905.

For Petitioner : Mr.R.Sundar

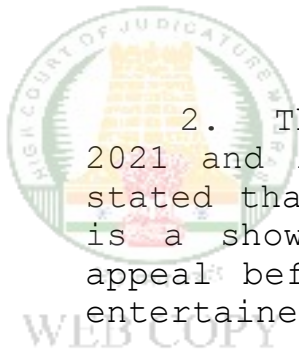
For Respondents : Mr.M.Ramesh, Government Advocate

ORDER

(Order of the Court was made by

PUSHPA SATHYANARAYANA, J.)

The challenge in the writ petition is to the notice styled to have been issued under Section 6 of the Tamil Nadu Land Encroachment Act, 1905.



2. The writ petitioner had earlier filed W.P(MD)No.19551 of 2021 and invited an order on 01.11.2021, in which, it has been stated that though the notice issued under Section 7 of the Act, is a show cause notice, the petitioner therein, had filed an appeal before the District Collector and the Collector had also entertained the appeal and dismissed the same.

3. It is to be pointed out that after Section 7 notice, there should be an enquiry as per Section 6(2), which is summary in nature and the authorised officer is to pass appropriate order. When such order is passed, it is appealable under Section 10 of the Act, before the District Collector. In this case, the learned Government Advocate is unable to say whether an enquiry was conducted.

4. The dismissal of the appeal preferred against Section 7 notice by the District Collector, cannot be an impediment, for conducting enquiry under Section 6. It appears that Section 7 notice has already been issued, which was appealed against by the writ petitioner. Thereafter, an order under Section 6 should have been passed after enquiry. The impugned notice which is issued under Section 6, does not state that there was an enquiry before the said notice was issued.

5. Therefore, the 3rd respondent is directed to conduct an enquiry pursuant to Section 7 notice, which was issued earlier. After the enquiry by affording an opportunity of personal hearing to the petitioner, an order may be passed, on merits and if any such order is passed and if the petitioner is aggrieved, it is open to him to file appeal under Section 10. Therefore, we are of the opinion that the impugned notice issued under Section 6, is without enquiry and the same cannot be sustained and accordingly it is set aside.

6. In the light of the above discussion, the Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Crl)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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To

1) The District Collector,
District Collector's Office,
Trichy-1,
Trichy District.

2) The District Revenue Officer,
D.R.O. Office,
District Collector's Office,
Trichy-1,
Trichy District.

3) The Tahsildar,
Taluk Office,
Marungapuri,
Trichy District.

+1 CC to M/s.SPL GP (SR-35646[F] dated 24/11/2021)

W.P(MD)No.20859 of 2021

DATED : 23.11.2021

RK(06/12/2021) 3P 5C