



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.11.2021

CORAM:

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA
AND

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P(MD)No.21310 of 2021

W.M.P. (MD) No.17875 of 2021

Muthumari

... Petitioner

Vs.

1.The District Collector,
Virudhunagar District,
Virudhunagar.

2.The Revenue Divisional Officer,
Aruppukkottai,
Virudhunagar District.

3.The Thasildar,
Tiruchuzhi,
Virudhunagar District.

... 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 pertaining to the impugned order of Na.Ka.Aa1/5005/2021, dated 26.11.2021, passed by the 3rd Respondent and quash the same and consequently, directing the 3rd Respondent to consider and pass order on the petitioner reply, dated 29.09.2021.

For Petitioner : Mr.R.Murugappan

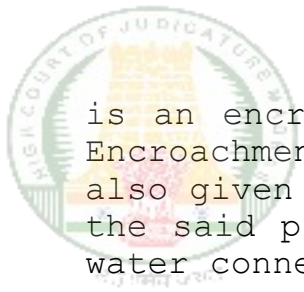
For Respondents : Mr.M.Ramesh
Government Advocate

ORDER

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

The writ petitioner has moved this Court, challenging the order in Na.Ka.Aa1/5005/2021, dated 26.11.2021.

2.Adjacent to the petitioner's house, there is a "cattle shed pound" to an extent of 40 square feet, which the petitioner is using as cattle shed by covering the same with thin iron sheets. Since it



is an encroachment, notice under Section 7 of the Tamil Nadu Land Encroachment Act, 1905, was issued on 27.09.2021. The petitioner has also given a response on 29.09.2021, stating that she has been using the said place as a passage to reach his house and electricity and water connection were also given to the said land.

WEB COPY

3. Section 6 of the Tamil Nadu Land Encroachment Act, 1905, provides for the mode of eviction, as per which if reply is given to the Section 7 notice by the alleged encroacher, the Collector, or the Tahsildar or Deputy Tahsildar or authorised officer shall hold a summary inquiry into the facts of the case, and if satisfied that the resistance or obstruction was without any just cause and such resistance or obstruction still continues, then may evict him from the premises. But in this case, despite the reply given, the said procedure has not been followed and the date of eviction is 30.11.2021 at 11.00 a.m. Therefore, the petitioner has urgently moved this Court by way of lunch motion and when the writ petition was taken up today (29.11.2021), the learned Government Advocate appearing for the respondents would state that the third respondent would afford an opportunity of personal hearing to the petitioner to put forth her objection before order of eviction is passed.

4. Recording the said submission, the order impugned, dated 26.11.2021, is set aside. The third respondent is directed to issue notice, fixing the time for enquiry, afford an opportunity of personal hearing to the petitioner and also consider any document that may be filed by her and then may pass appropriate orders.

5. With the above directions, the Writ Petition stands allowed. No costs. Consequently, connected Miscellaneous Petition is also closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

sj

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,
Virudhunagar District,
Virudhunagar.

2.The Revenue Divisional Officer,
Aruppukkottai,
Virudhunagar District.

3.The Thasildar,
Tiruchuzhi,
Virudhunagar District.

+1 CC to M/s.R.MURUGAPPAN, Advocate (SR-36681[F] dated 01/12/2021)

+1 CC to M/s.SPL GP (SR-36480[F] dated 30/11/2021)

W.P(MD)No.21310 of 2021
29.11.2021

MGJ(02.12.2021) 3P 6C