



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED: 22.12.2021**

**CORAM:**

**THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA  
AND**

**THE HONOURABLE MR.JUSTICE P.VELMURUGAN**

**W.P(MD)No.22752 of 2021  
and W.M.P. (MD) No.19239 of 2021**

Danasekar

... Petitioner

Vs.

- 1.The District Collector,  
Office of the District Collector,  
Sivagangai.
- 2.The Tahsildar,  
Taluk Office,  
Thirupuvanam Taluk,  
Sivagangai District.
- 3.The Block Development Officer,  
Thirupuvanam Taluk,  
Sivagangai District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari, calling for the records relating to the impugned order made in Na.Ka.A2/3608/2021, dated 30.11.2021, on the file of the 2<sup>nd</sup> respondent herein and to quash the same as illegal and arbitrary.

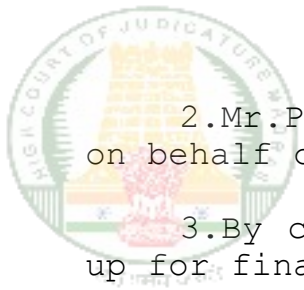
For Petitioner : Mr.C.Jeganathan

For Respondents : Mr.P.Thilakkumar  
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 Thasildar, Thirupuvanam Taluk, Sivagangai District, Na.Ka.A2/3608/2021, dated 30.11.2021, calling upon the petitioner to vacate the premises, alleging that he had encroached upon S.No.186, Keeladi Group and Village Village, which is a Cart Track, within 15 days. The notice further states that failing which, the encroachment will be removed under the Tamil Nadu Land Encroachment Act, 1905.



2.Mr.P.Thilakkumar, learned Government Pleader, accepts notice on behalf of the respondents.

3.By consent of both sides, this Writ Petition itself is taken up for final disposal at the time of admission.

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4.The grievance of the petitioner is that his mother-in-law was in continuous possession and enjoyment of the property and 2C Patta has been issued in her favour and his mother-in-law had orally gifted the property in favour of his wife and they are in possession and enjoyment of the property by paying tax and he has not been given a show cause notice under Section 7 of the Tamil Nadu Land Encroachment Act, 1905, so as to give his explanation and the impugned order has been passed in violation of Sections 6 and 7 of the said Act.

5.When this Court put a question to the learned Additional Government Pleader as to whether they are going to issue notice under Section 7 of the Act, calling for explanation from the encroacher, the answer was in the negative.

6.After issuing notice under Section 7 of the Tamil Nadu Land Encroachment Act, an enquiry, which is summary in nature, has to be conducted and thereafter only order of eviction has to be passed. Since the statutory provisions are violated, we are inclined to set aside the impugned order.

7.Accordingly, the Writ Petition is allowed and the impugned order of the second respondent in Na.Ka.A2/3608/2021, dated 30.11.2021, is set aside. However, it is open to the respondents to issue fresh notice, following the procedure contemplated under the Tamil Nadu Land Encroachment Act, 1905, and evict the petitioner, if he is an encroacher. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

/ /2022

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.

<https://hcservices.ecourts.gov.in/hcservices/>



To

1.The District Collector,  
Office of the District Collector,  
Sivagangai.

2.The Tahsildar,  
Taluk Office,  
Thirupuvanam Taluk,  
Sivagangai District.

3.The Block Development Officer,  
Thirupuvanam Taluk,  
Sivagangai District.

+1 CC to M/s.SPL GP ( SR-40218[F] dated 23/12/2021 )

+1 CC to M/s.C.JEGANATHAN, Advocate ( SR-39989[F] dated 22/12/2021 )

**W.P (MD) No.22752 of 2021**  
**22.12.2021**

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