

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.02.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.21249 of 2010

Mahalingam

... Petitioner

Vs.

1.The Tahsildar,
Sulur Taluk,
Coimbatore District.

2.The Revenue Inspector,
Selakkarichal Firka,
Selakkarichal,
Sulur Taluk,
Coimbatore District.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for records from the second respondent in respect of the notice issued U/s.6 of Act 3 of 1905 relating to the property of the petitioner in S.F.No.427/7, Vadavalli Village and quash the same.

For Petitioner : M/s.P.Indumathi

For Respondents : Mr.M.Murali
Government Advocate

O R D E R

The petitioner has filed this writ petition seeking issuance of Writ of Certiorari to call for the records from the second respondent in respect of the notice issued U/s.6 of Act 3 of 1905 relating to the property of the petitioner in S.F.No.427/7, Vadavalli Village and to quash the same.

2.The subject property is classified as natham land and the petitioner is in possession of the subject property for several years. Whiles, the respondents issued the impugned notice. Aggrieved by the same, the petitioner has filed this writ petition.

3.The learned counsel appearing for the petitioner submitted that the respondents without following the due process of law issued the impugned notice under Section 6 of Act 3 of 1905 to the petitioner which is un-sustainable one.

4.The learned Government Advocate appearing for the respondents submitted that the petitioner occupied the objectionable land for which the respondents issued the eviction notice under Section 6 of Act 3 of 1905. The petitioner can file appropriate objection before the Revenue Inspector to substantiate his claim. Instead of doing so, the petitioner has filed this writ petition which is not sustainable. He further submitted that even if the Authorities pass orders after the impugned notice, there is appeal remedy available to the petitioner. Hence, the petitioner filing this writ petition is un-sustainable one.

5.Heard the arguments advanced on either side and perused the materials available on record.

6.The facts in the present case is not in dispute. This Court perused the impugned order. In the impugned order there is no whisper with regard to the issuance of prior notice under Section 7 of Act 3 of 1905. As per Act 3 of 1905, it is mandatory to issue show cause notice under Section 7 of Act before issuing eviction notice under Section 6 of Act. Therefore, it is clear that the respondents have issued the impugned notice without following the due process of law.

7.In view of the above, this Court is inclined to set aside the impugned notice. Accordingly, the impugned notice is set aside. The writ petition stands allowed. However, liberty is granted to the respondents to proceed in accordance with Act 3 of 1905 by following due process of law. No costs. Consequently, connected miscellaneous petition, if any, is closed.

Sd/-

Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

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To

1.The Tahsildar,
Sulur Taluk,
Coimbatore District.

2.The Revenue Inspector,
Selakkarichal Firka,
Selakkarichal,
Sulur Taluk,
Coimbatore District.

+1cc to Mrs.P.Indumathi, Advocate SR. No. 10179

W.P.No.21249 of 2010

GMR (CO)
PR (16/03/2022)