

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.02.2022

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA
and
THE HONOURABLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

W.P.No.4290 of 2022 and W.M.P. No.4416 of 2022

P.Murugan

... Petitioner

vs

1. The Collector,
Dharmapuri District,
Dharmapuri.
2. The District Revenue Officer,
Dharmapuri District,
Dharmapuri.
3. The Revenue Divisional Officer,
Dharmapuri District,
Dharmapuri.
4. The Tahsildar,
Nallampalli Taluk,
Dharmapuri District.
5. The Revenue Inspector,
Indur Village,
Nallampalli Taluk,
Dharmapuri District.
6. The Village Administrative Officer,
Nagarkoodal Village,
Nallampalli Taluk,
Dharmapuri District.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a writ of Certiorarified Mandamus to call for the entire records pertaining to the issuance of the notice dated 15.02.2022 under Section 6 of Tamil Nadu Land Encroachment Act 1905 by the Tahsildar, Nallampalli Taluk, Dharmapuri District and quash the same as illegal and unlawful and without jurisdiction and consequentially direct the respondents to consider the representation of the petitioner dated 11.01.2022 for issuance of patta on his name.

For Petitioner : Mr.C.Umashankar
For Respondents : Mr.A.Selvendran,
Special Government Pleader

ORDER

[Order of this Court was delivered by T.RAJA, J.]

Challenging the notice dated 15.02.2022 issued by the Tahsildar, Nallampalli Taluk, Dharmapuri District, the fourth respondent herein under Section 6 of the Tamil Nadu Land Encroachment Act 1905, the petitioner has come to this Court seeking a direction to the respondents to consider his representation dated 11.01.2022 for issuance of patta on his name.

2.Learned counsel appearing for the petitioner submitted that the lands covered in Survey No.196/1, situated at Nagarkoodal Village, Nallampalli Taluk, having an extent of 1.66 hectares, belong to the petitioner's property and the petitioner has been cultivating pulses in the said lands. While so, the Government of Tamil Nadu announced a housing scheme for homeless poor people under "Green House Scheme" and therefore, the petitioner applied for the same. After getting an allotment order dated 15.12.2020, the petitioner has constructed a house in the said land and has been living in the said house by obtaining electricity connection and also paying property tax to Nagarkoodal Panchayat. While so, the petitioner had received a notice dated 23.12.2021 issued by the Revenue Inspector, Indur, Nallampalli Taluk, the fifth respondent herein under Section 7 of the Land Encroachment Act, 1905. In this regard, the petitioner has given his explanation dated 07.01.2022, but without considering the same, the above notice dated 15.02.2022 was issued under Section 6 of the Land Encroachment Act, 1905 directing him to vacate and hand over the possession of land and building within 7 days. Therefore, the petitioner has come to this Court.

3.Learned counsel for the petitioner further submitted that when the petitioner has been living for the past 40 years and the property tax has also been paying by him and the petitioner, being a homeless poor, constructed the house under "Green House Scheme", the above impugned notice ought not to have been issued by the respondents.

4.At this stage, learned Special Government Pleader appearing for the respondents submitted that since the petitioner has been encroaching the Government land, action has been taken by issuing notice under Section 7 of the Tamil Nadu Land Encroachment Act 1905, for which, the petitioner has given an explanation dated 07.01.2022. Finding no

justification therein, the present impugned notice under Section 6 of the Tamil Nadu Land Encroachment Act has been issued to him. If the petitioner has got any grievance, he can file an Appeal under Section 10(a) of the Tamil Nadu Land Encroachment Act before the District Collector.

5. Since the petitioner has got effective statutory remedy under Section 10(a) of the Tamil Nadu Land Encroachment Act 1905 before the District Collector, we are not inclined to entertain this petition. Therefore, the petitioner is given liberty to file an Appeal under Section 10(a) of the Act before the District Collector within a period of two weeks. Accordingly, this writ petition stands dismissed. Consequently, W.M.P. No.4416 of 2022 stands closed. No costs.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

vga

To

1. The Collector,
Dharmapuri District, Dharmapuri.
2. The District Revenue Officer,
Dharmapuri District, Dharmapuri.
3. The Revenue Divisional Officer,
Dharmapuri District, Dharmapuri.
4. The Tahsildar,
Nallampalli Taluk,
Dharmapuri District.
5. The Revenue Inspector,
Indur Village, Nallampalli Taluk,
Dharmapuri District.
6. The Village Administrative Officer,
Nagarkoodal Village,
Nallampalli Taluk,
Dharmapuri District.

+1cc to Mr.C.Umashankar, Advocate SR. No.12921
+1cc to Government Pleader SR. No.13396

W.P.No.4290 of 2022 and W.M.P. No.4416 of 2022

SVI (CO)

PR (01/04/2022)