



WEB COPY



W.P.No.8075/2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.04.2022

CORAM

**THE HONOURABLE MR.JUSTICE T.RAJA
and
THE HONOURABLE MR.JUSTICE S.SOUNTHAR**

W.P.No.8075 of 2022 and WMP.Nos.8041 and 8043/2022

P.Perumal

... Petitioner

-VS-

1. The District Collector,
Salem District,
Salem.
2. The Revenue Divisional Officer,
Salem District, Salem.
3. The Tahsildar,
Salem Taluk Office,
Salem District.
4. The Revenue Inspector,
Salem Town, Ammapet,
Salem District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking for issuance of a Writ of Certiorarified Mandamus, calling for the records made in Section 6 Notice under Tamil Nadu Land Encroachment Act issued by the 3rd respondent herein dated 18.03.2022 and quash the same as illegal and direct the respondents not to dispossess the petitioner from his agricultural land in Survey No.70/1, measuring about 0.92.0 hectrs situated at



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Kondappanaickenpatti Village, Salem Taluk, Salem District to secure the ends of justice.

For Petitioner : Mr.R.Sankarasubbu

For Respondents : Mr.A.Selvendran,
Spl. Govt. Pleader

ORDER

(Order of the Court was made by **T.RAJA, J.**)

Challenging the correctness of the impugned proceedings issued under Section 6 of the Tamil Nadu Land Encroachment Act, 1905 by the 3rd respondent herein, namely, the Tahsildar, Salem Taluk Office, Salem District, and for quashing the same as illegal with a direction to the respondents not to dispossess the petitioner from his agricultural land in Survey No.70/1, measuring about 0.92.0 hectrs situated at Kondappanaickenpatti Village, Salem Taluk, Salem District, this Writ Petition has been filed.

2. Learned Counsel appearing for the petitioner would submit that the petitioner being a senior citizen, aged about 78 years, has been carrying on the agricultural activities in his land measuring 0.92 hectares (2.27 acres) situated at Kondappanaickenpatti, Salem Taluk, Salem District. It is the claim of the petitioner that his grandfather was a Iso cultivating the said land and constructed a house and a Well and got electricity connection from the Electricity



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Board and after the death of his grandfather, his father Ponnusamy has been continuously cultivating the said land, as a result, when the petitioner is having the possessory right over the land-in-question since 1985, the issuance of the impugned notice under Section 7 followed by 6 of the Tamil Nadu Land Encroachment Act, 1905 are untenable. Further, when the petitioner has been cultivating the land for quite a long time, all of a sudden, the 3rd respondent cannot come and destroy the standing crops and there is no any proper enquiry held. For all these reasons, the petitioner has been advised to approached this Court with the present Writ Petition.

3. Mr.A.Selvendran, learned Special Government Pleader opposing the above prayer by producing the written instructions issued to him by the 3rd respondent herein would submit that this Court cannot entertain the present Writ Petition for the simple reason that when the 3rd respondent has initiated proceedings for removal of encroachment under Section 7 of the Tamil Nadu Land Encroachment Act, 1905, calling upon the petitioner to give his explanation as to why he should not be removed from the encroachment, he has also given a detailed explanation dated 14.03.2022. But the said explanation has not been supported by any evidence showing that he is not an encroacher in the said land-in-question. The learned



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Special Government Pleader would further submit that as a matter of fact, the land-in-question belongs to Anadeenam, therefore, the Anadeenam land cannot be occupied by anyone, more particularly, no patta can be issued to anyone in respect of the Anadeenam land. That apart, Anadeenam land cannot be given to a person who is already owning a land. In the present case, as the petitioner is already owning a patta land to the extent of 0.70.5 hectares in S.No.66/1B in Patta No.249 of Kondappanaickenpatti Village, Salem Taluk, he is an encroacher of the land-in-question. He would also submit that as against the impugned order passed under Section 6 of the Tamil Nadu Land Encroachment Act, 1905, the petitioner is having effective, alternative and statutory remedy under Section 10 of the Act before the District Collector, Salem and within 30 days from the date of receipt of the impugned notice, he has to file an appeal before the District Collector, Salem and without exhausting the said remedy, the petitioner has straight away come to this Court.

4. Recording the submissions made by the learned Special Government Pleader appearing for the respondents that the petitioner is having effective, alternative and statutory remedy under Section 10 of the Tamil Nadu Land Encroachment Act, we hereby direct the petitioner to file an appeal before the 1st respondent herein, namely,



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the District Collector, Salem District, Salem, within a period of two weeks, who in turn, on receipt of the same, shall consider and dispose of the same on merits and in accordance with law, within a period of two weeks thereafter, without influenced by any of the observations made by this Court in this order. Till such time, the respondents are directed to maintain status-quo as on today.

5. With the above observation and direction, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

(T.R.J.,) (S.S.J.,)

04.04.2022

Note : Issue order copy on 05.04.2022

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To

1. The District Collector,
Salem District,
Salem.
2. The Revenue Divisional Officer,
Salem District, Salem.

**T.RAJA,J.
AND
S.SOUNTHAR, J.**



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3. The Tahsildar,
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