



W.P.No.33987 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.12.2022

CORAM :

THE HON'BLE MR.T.RAJA, ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

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R.Sadaiyandi

.. Petitioner

Vs

1 The District Collector
Kanchipuram District.

2 The Tahsildar
Cheyyur Taluk
Cheyyur, Kanchipuram District.

3 The Revenue Inspector
Lathur Firka, Cheyyur Taluk
Chengalpattu District.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorari to call for the records relating to the impugned notice dated 06.12.2022 issued by the 3rd respondent herein to the petitioner under Section 7 of the Tamil Nadu Land Encroachment Act 1905 in respect of Survey No.444/1 (Actual Survey No.441/1) situate at Adayalacheri Village, Cheyyur Taluk, Chengalpattu District and to quash the same in the light of the order of



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interim stay vide Na.Ka.No.35326/2011/a3, dated 19.07.2011 and pendency of appeal under Section 10 of The Tamil Nadu Land Encroachment Act 1905 before the 1st respondent herein.

For the Petitioner : Mr.D.Murthy

For the Respondents : Mr.P.Muthukumar
State Government Pleader
for respondents 1 and 2

ORDER

(Order of the court was made by the Hon'ble Acting Chief Justice)

R.Sadaiyandi, son of Ramalingam, a resident of Adaiyalacheri Village, Cheyyur Taluk, Chengalpattu District having received the impugned notice issued under Section 7 of the Tamil Nadu Land Encroachment Act, 1905 [for short, "the Act of 1905"] calling upon him to submit his explanation, has filed this writ petition under Article 226 of the Constitution of India to quash the impugned notice on the premise that he is pattadar in respect of the land covered in Survey No.444/1 (according to the petitioner the correct survey number is 441/1) situated at Adaiyalacheri Village, Cheyyur Taluk, Chengalpattu District in the light of the interim order dated 14.9.2011 passed by the District Collector, Kancheepuram in the pending appeal.



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2. Learned counsel appearing for the petitioner submitted that the petitioner is a resident of Adaiyalacheri Village and there is a large extent of land comprised in Survey No.441, which is classified as poramboke land in Adaiyalacheri Village. Some of the landless people in Adaiyalacheri were in continuous possession and enjoyment of the said land for several decades by putting up thatched huts. Learned counsel would submit that the petitioner has also been in possession and enjoyment of a house site bearing Survey No.441/2(P) measuring an extent of 0065 square meter and he had constructed a house with asbestos roof and is residing there along with his family members for more than 40 years. The petitioner had also obtained electricity service connection to his house and on recognition of their possession and enjoyment, the Government has classified the said land as grama natham and issued pattas to various occupants after sub-dividing the land as 441/1, 441/2, 441/3, 441/3, 441/4, 441/5, 441/6 and 441/7.

3. Learned counsel further submitted that one Adhilakshmi, at the instigation of one Narayanan, has clubbed the said grama natham land with burial ground in order to give a colour that the entire land is earmarked for burial ground with an ulterior motive to evict all the



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occupants from their respective occupation. Aggrieved upon the said classification, the occupants have approached the Revenue Divisional Officer, Madurantakam, who, after conducting a detailed enquiry, held that there is no encroachment in the land earmarked as burial ground.

4. According to learned counsel for the petitioner, in the month of September, 2010 at the instigation of the said Narayanan, the second respondent herein had initiated proceedings under the provisions of the Act of 1905 and issued notice dated 18.9.2010 under Sections 6 and 7 of the Act in the name of the petitioner's brother and other persons, who were found to be in occupation and enjoyment of the said land. Aggrieved by the issuance of the said notices, an appeal has been preferred before the District Collector, Kancheepuram under Section 10 of the Act of 1905 and the District Collector, by the order dated 14.9.2011, stayed the proceedings under Section 6 of the Act of 1905 vide Na.Ka.No.3526/2011/A3 and the said appeal is still pending for consideration. While so, the third respondent issued the impugned notice calling upon the petitioner to show cause as to why his occupation should not be removed on or before 21.12.2022. Therefore, the petitioner has been advised to file the present writ



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petition.
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5. We have considered the submissions made by learned counsel for the petitioner and also perused the materials available on record.

6. Admittedly, learned counsel for the petitioner is unable to show any right or ownership of the petitioner over the land covered in Survey No.444/1, whereas the petitioner pleaded that patta has been issued in his favour for the land covered in Survey No.441/2(P). When the petitioner is unable to show any document in respect of his ownership or title on the land in question, it cannot be contended that he has right over the land in Survey No.444/1, for which the impugned notice has been issued. Further, if at all the petitioner has any grievance over the impugned notice, he has to submit his explanation within the time prescribed by law. In the case on hand, the petitioner has not submitted his explanation to the impugned notice till date. Without even submitting his explanation, the petitioner cannot maintain a writ petition under Article 226 of the Constitution of



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7. In such view of the matter, the writ petition fails and is dismissed with costs assessed at Rs.15,000/- (Rupees Fifteen Thousand) payable by the petitioner to the credit of Madras High Court Advocate Clerks' Welfare Association within a period of two weeks from the date of receipt of a copy of this order for wasting the Court's time. Consequently, W.M.P.No.33461 of 2022 is closed.

(T.R., ACJ.) (D.B.C., J.)
20.12.2022

Index : Yes/No
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