



W.P.No.33864 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.12.2022

CORAM :

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

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

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M/s.Aruna Constructions (India) Ltd.,
rep. by its Director, Sheeju Purushothaman,
Empee Towers, 59, Harris Road,
Pudupet, Chennai-600 006.

.. Petitioner

Vs

1.Government of Tamil Nadu,
rep. by its Secretary,
Revenue Department,
Fort St. George,
Chennai-600 009.

2.The Tasildhar,
Pallavaram Taluk,
Pallavaram, Chengleput District.

3.The Revenue Inspector,
Pallavaram Taluk,
Pallavaram, Chengleput District.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India
seeking issuance of a writ of certiorari calling for the records of the



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third respondent with respect to the notice under Section 7 of the Land Encroachment Act dated 29.11.2022 and quash the same.

For the Petitioner : Mrs.M.Sneha

For the Respondents : Mr.P.Balathandautham
Spl. Government Pleader

ORDER

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

Aruna Constructions (India) Ltd, represented by its Director, has filed this writ petition challenging the notice dated 29.11.2022 issued under Section 7 of the Tamil Nadu Land Encroachment Act, 1905 [for brevity, "*the Act*"].

2. Mrs.M.Sneha, learned counsel for the petitioner, would submit that the lease hold rights in the land measuring 4 acres and 22,059 sq.ft. in Survey No.421 of St.Thomas Mount Village, Saidapet Taluk (now known as Alandur Taluk) of Kancheepuram District was purchased by them vide a sale deed dated 30.8.1990 and patta was granted in their favour by the Assistant Settlement



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Officer, Thiruvannamalai, on 18.3.1991. However, the Special Commissioner and Commissioner of Land Administration had suo motu invoked the power under Sections 7(a) and 7(c) of the Tamil Nadu Lease Holds (Abolition and Conversion into Ryotwari) Act, 1963 [Act 27/1963] and, by order dated 25.11.1993 and cancelled the patta issued in favour of the petitioner for the reason that the Assistant Settlement Officer, Thiruvannamalai, has no jurisdiction to issue the patta.

3. It is further submitted by learned counsel for the petitioner that the petitioner made a representation on 3.12.2010 seeking assignment of the land and since the said representation did not evoke any response, the petitioner filed W.P.No.716 of 2011. The said writ petition was disposed of by order dated 12.1.2011 directing the first respondent to consider the representation of the petitioner dated 3.12.2010 and it was made clear that till the disposal of the representation, the petitioner's possession shall not be disturbed.

4. The next submission made by learned counsel for the



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petitioner is that the first respondent, by order dated 19.9.2013, rejected the claim of the petitioner for assignment and directed the competent authority to take necessary steps to resume the land immediately. Aggrieved thereby, the petitioner filed W.P.No.27327 of 2013. A learned Single Judge of this court, by order dated 15.12.2020, finding that the order dated 19.9.2013 was passed by the first respondent without affording an opportunity of hearing to the petitioner, allowed the writ petition and remitted the matter to the first respondent for fresh consideration along with the pending revisions after giving an opportunity of hearing to the petitioner.

5. Learned counsel for the petitioner further submitted that when the revisions filed against the cancellation of patta and the rejection of the claim regarding assignment of land were pending consideration before the first respondent, the third respondent ought not to have issued the notice under Section 7 of the Act and, therefore, the same has to be set aside. She further submitted that the petitioner has given a detailed reply on 5.12.2022 in response to the show cause notice issued under Section 7 of the Act. However,



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since the respondents are threatening eviction of the petitioner, the present writ petition has been filed.

6. Refuting the arguments advanced by learned counsel for the petitioner, Mr.P.Balathandautham, learned Special Government Pleader appearing on behalf of the respondents, submitted that all that the petitioner has to do in response to the notice issued under Section 7 of the Act is to submit an explanation. The petitioner can, in their explanation, narrate about the pendency of the revisions filed against the cancellation of patta and the rejection of the claim regarding assignment of land, by enclosing necessary documents showing their ownership and title over the land in question. Without pursuing the remedy before the competent authority, the present writ petition is not maintainable.

7. We find merit in the submission made by learned Special Government Pleader appearing for the respondents. If the petitioner is aggrieved by the notice issued under Section 7 of the Act, all that it has to do is to submit an explanation enclosing all relevant



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documents to establish their title and ownership of the land in question and to further narrate about the pendency of the revisions filed against the cancellation of patta and the rejection of the claim regarding assignment of land. Admittedly, no order prejudicing the right of the petitioner is under challenge in this writ petition and the challenge is only to a show cause notice. Therefore, in our considered opinion, the writ petition is devoid of merits.

8. At this juncture, learned counsel for the petitioner prayed for one week's time to submit a fresh representation to the competent authority in response to the notice under challenge by enclosing all relevant documents to establish their title and ownership of the land in question.

9. Considering the submission made by learned counsel for the petitioner, we grant the petitioner a period of one week from the date of receipt of a copy of this order to submit a detailed further explanation to the competent authority in response to the notice under challenge by enclosing all relevant documents to establish



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their title and ownership of the land in question. If within the aforesaid time period the petitioner fails to submit the further explanation enclosing necessary documents, the respondent authorities are directed to proceed further on the basis of available documents and pass appropriate orders within two weeks thereafter.

The writ petition is disposed of accordingly. There will be no order as to costs. Consequently, W.M.P.Nos.33343 and 33344 of 2022 are closed.

(T.R., ACJ.) (D.B.C., J.)
19.12.2022

Index : Yes/No
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To:

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Government of Tamil Nadu,
Revenue Department,
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(sasi)

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