



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.04.2022

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA
AND
THE HONOURABLE MR.JUSTICE S.SOUNTHAR

W.P.No.35611 of 2019

M/s JRS Crusher
represented by its Partner
Jothypuram, Denkanikottai Taluk
Krishnagiri District

.. Petitioner

-vs-

1. The District Collector
Krishnagiri District
Krishnagiri

2. The Tahsildar
Denkanikottai Taluk
Krishnagiri District

3. Revenue Inspector
Kelamangalam
Denkanikottai Taluk
Krishnagiri District

... Respondents

Petition under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari, calling for the records of the 3rd respondent in PR No.69/2019 dated 27.09.2019 under Section 7 of the Tamil Nadu Land Encroachment Act, 1905 and the consequential notice dated 05.11.2019 issued by the 2nd respondent under Section 6 of the Tamil Nadu Land Encroachment Act, 1905, quash the same.

For Petitioner :: Mr.R.Asokan

For Respondents :: Mr.K.Karthik Jaganathan
Additional Government Pleader

ORDER

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

M/s JRS Crusher represented by its managing partner has filed this writ petition challenging the impugned notice dated 27.09.2019 issued by the Revenue Inspector, Kelamangalam,



Denkanikottai Taluk, the third respondent herein under Section 7 of the Tamil Nadu Land Encroachment Act, 1905, the consequential notice dated 05.11.2019 issued by the Tahsildar, Denkanikottai Taluk, the second respondent herein under Section 6 of the Tamil Nadu Land Encroachment Act, 1905 and to quash the same.

2. Learned counsel appearing for the petitioner submitted that the petitioner is a registered partnership firm formed in the year 2013 for carrying on the business of crushing granite stones. Therefore, the petitioner constructed the stone crusher unit in the patta land covered in Survey No.354/1, Osapuram village belonging to Mr.Jayakanthan and Mr.Jayanth, who are the other partners of the petitioner. After taking the land on lease by the petitioner from them, the said Jayakanthan and Jayanth, who were in-charge for the construction of stone crusher unit, made the construction occupying a portion of the adjacent Government poramboke land covered in Survey Nos.355 & 356. But the other partners were unaware of the same and they have also carried on their business for nearly two years without any problem. Later on, due to the misunderstanding erupted among the partners, O.P.No.347 of 2016 was filed before this Court and even though this Court directed them to co-operate with the other partners in carrying on the business, they submitted a representation dated 08.03.2019 to the revenue officers alleging that the stone crusher and weigh bridge have been constructed in the Government poramboke land with a request to remove the encroachment and thereafter, Writ Petition No.19386 of 2019 was filed and this Court directed the Tahsildar, Denkanikottai to consider the representation dated 08.03.2019 and dispose of the same after giving notice to the fourth respondent therein within eight weeks from the date of receipt of copy of the order. Pursuant thereto, the third respondent issued a notice under Section 7 of the Tamil Nadu Land Encroachment Act, 1905 on 27.09.2019 alleging that the petitioner is in possession of Government poramboke land comprised in Survey Nos.355 & 356 in Osapuram village measuring 0.50.0 hec., and 0.10.0 hec., respectively with a direction to to the petitioner to remove the crusher unit and weigh bridge unit within 15 days time.

3. Continuing his arguments, Mr.Asokan submitted that the impugned notice issued under Section 7 by the third respondent is a defective one, because it is not in the nature of show cause, but it is only giving a direction to vacate from the place in question, as a result the petitioner has not been given a reasonable opportunity to put forth its case. Secondly, the third respondent admittedly has not called upon the petitioner to submit the objections to the notice given under Section 7 of the Act also. Thirdly, the impugned notice has not specified the date within which the petitioner has to submit the objections. Similarly, the notice issued under Section 7 also has failed to



mention the Officer to whom the objection has to be submitted. Therefore, the petitioner was unable to present his representation. For these reasons, the consequential notice issued by the second respondent under Section 6 also is liable to be set aside. Concluding his arguments, he submitted that wittingly or unwittingly, the petitioner had put up the crusher unit and the weigh bridge. But now the petitioner, having invested huge money and having realised the mistake, has come forward to offer alternative patta land which is also situated nearer to the land in question. Therefore, the crusher unit employing 100 persons need not be disturbed as, in the alternative, the petitioner is prepared to offer equal extent of patta land in the nearby area.

4. Learned Additional Government Pleader appearing for the respondents submitted that it is an admitted case of the petitioner that the crusher unit has been set up in the Government poramboke land comprised in Survey Nos.355 & 356 in Osapuram village measuring 0.50.0 hec., and 0.10.0 hec., respectively. Therefore, a complaint was also given on 08.03.2019 and as no action was taken, Writ Petition No.19386 of 2019 was filed seeking a direction against the Tahsildar, Denkanikottai to consider the representation dated 08.03.2019 and the same was ordered to be considered within eight weeks from the date of receipt of the order by this Court. Hence, the respondents, left with no other option, being bound by the direction issued by this Court, issued the impugned notice under Section 7 followed by the notice under Section 6. When the petitioner has given a reply to the notice issued under Section 7, a perusal of the same also clearly shows that the petitioner has encroached the Government poramboke land covered in Survey Nos.355 & 356. Therefore, when the petitioner has been running the crusher unit encroaching into the Government poramboke land, as mentioned above, the notice issued under Section 7 followed by the action initiated under Section 6 are in order, hence, no interference is called for, he pleaded.

5. We also find merits on the submissions made by the learned Additional Government Pleader for the respondents. When the notice issued under Section 7 of the Tamil Nadu Land Encroachment Act was received by the petitioner, a detailed reply has been given by the petitioner to the said notice and a perusal of the reply given by the petitioner to the notice issued under Section 7 clearly brings the case of the petitioner under Section 58 of the Evidence Act, which says that the admitted facts need not be proved. Therefore, when the petitioner, on receipt of the notice under Section 7, has given the reply admitting that he has encroached the Government poramboke land comprised in Survey Nos.355 & 356 of Osapuram village measuring 0.50.0 hec., and 0.10.0 hec., respectively, we



do not find any merit in the writ petition. Even the alternative submission made by the learned counsel appearing for the petitioner that he is ready to offer an alternative patta land in the nearby area, is also, in our considered opinion, beyond the scope of the relief sought for in the writ petition. Accordingly, finding no merits whatsoever, the writ petition stands dismissed. Consequently, W.M.P.Nos.36501 & 36503 of 2019 are also dismissed. No order as to costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

1. The District Collector
Krishnagiri District, Krishnagiri
2. The Tahsildar
Denkanikottai Taluk
Krishnagiri District
3. The Revenue Inspector
Kelamangalam
Denkanikottai Taluk
Krishnagiri District

+1cc to the Government Pleader, S.R.No.26175

W.P.No.35611 of 2019

GPL(CO)
CT 28/04/2022