



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.05.2022

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

AND

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P(MD) No.9812 of 2022

and

W.M.P(MD) No.7032 of 2022

M.Shanmugam

.. Petitioner

Vs.

1.The Revenue Divisional Officer,
Revenue Divisional Office,
Aranthangi,
Pudukottai District.

2.The Tahsildar,
Aranthangi Taluk Office,
Aranthangi,
Pudukottai District.

3.S.Ramakrishnan

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records of the second respondent impugned notice, dated 06.05.2022 in Na.Ka.No.3664/2022/Aa3 quash the same as illegal and arbitrary and consequently direct the second respondent to implement the first respondent order, dated 02.03.2022 in respect of the petitioner's property in Survey No.24/35, Kundagavayal Village, Aranthangi Taluk, Pudukottai District.

For Petitioner : Mr.M.R.Sreenivasan
for Mr.J.John

For RR 1 & 2 : Mr.N.Muthu Viyayan
Special Government Pleader

ORDER

[Order of the Court was made by **KRISHNAN RAMASAMY, J.**]

Heard Mr.N.Muthu Vijayan, learned Special Government Pleader, who takes notice for the respondents 1 & 2.

2.Since no adverse order is going to be passed as against the third respondent, notice to him is dispensed with.



3.This Writ Petition itself is taken up for final disposal at the admission stage.

4.Challenge in the Writ Petition is to the impugned notice issued on 06.05.2022 under Section 7 of the Tamil Nadu Land Encroachment Act, 1905 (hereinafter referred to as 'the Act').

5.The case of the writ petitioner is that Section 7 notice was directly issued calling upon the petitioner to remove the encroachment, without providing an opportunity to him to submit his reply. Therefore, he contended that it appears to be a final order passed under Section 7 of the Act, not otherwise Section 6 of the Act. Therefore, the petitioner has filed the present Writ Petition.

6.The learned Special Government Pleader appearing for the respondents 1 and 2 fairly submitted that the second respondent has issued the impugned notice only under Section 7 of the Act, however, in the last sentence it has been stated that for the removal of encroachment. Therefore, he submitted that this notice may be construed as show-cause notice under Section 7 of the Act and the petitioner may be permitted to give his reply.

7.Upon hearing and perusal of the impugned notice, it appears that before passing any order under Section 6 of the Act for the purpose of eviction, the second respondent supposed to have issued a notice under Section 7 of the Act. However, in the present case Section 7 notice was issued in the form of final order.

8.Therefore, we are of the view that it will be appropriate to treat the impugned notice issued under Section 7 of the Act as show-cause notice and permit the petitioner to give his reply.

9.In view of the above, this Court passes the following order:-

(i) the impugned notice, dated 06.05.2022 shall be considered as a show-cause notice.

(ii) the petitioner is directed to file a reply within a period of two weeks from the date of receipt of the copy of this order.

(iii) Thereafter, the second respondent is directed to consider the same and pass final orders in accordance with law within a period of twelve weeks.

(iv) Till such time, the respondents are directed not to disturb the possession of the writ petitioner.



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10.With the above direction, this Writ Petition is disposed of.
No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Vacation Officer/
Assistant Registrar (CS-I)

// True Copy //

/ /2022
Sub Assistant Registrar(CS)

PS/Myr

To

1.The Revenue Divisional Officer,
Revenue Divisional Office,
Aranthangi, Pudukottai District.

2.The Tahsildar,
Aranthangi Taluk Office,
Aranthangi,
Pudukottai District.

+1 CC to M/s.J. JOHN, Advocate (SR-23652[F] dated 12/05/2022)

+1 CC to M/s.SPL.GP (SR-23714[F] dated 13/05/2022)

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