



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **18.05.2022**

CORAM :

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

AND

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P(MD)No.10215 of 2022

and

W.M.P. (MD)No.7251 of 2022

Iyyappan, S/o.Muthu Perumal

... Petitioner

Vs.

1.The District Collector,
Sivagangai District,
Sivagangai.

2.The Zonal Deputy Tahsildar,
Devakottai Taluk,
Sivagangai District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records of the impugned notice dated 23.04.2022, issued by the second respondent and quash the same as illegal.

For Petitioner : Mr.R.J.Karthick
For Respondents : Ms.D.Farjana Ghoushia
Special Government Pleader

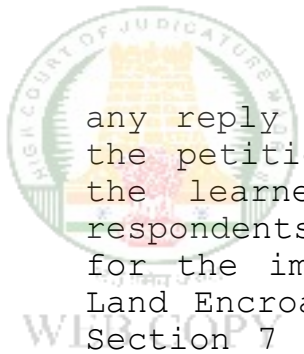
O R D E R

(Order of the Court was made by ABDUL QUDDHOSE, J.)

The petitioner has filed this Writ Petition challenging the impugned notice dated 23.04.2022, issued by the second respondent under Section 7 of the Tamil Nadu Land Encroachment Act, 1905 (Tamil Nadu Act 3 of 1905).

2.The petitioner has challenged the impugned notice on the ground that it is *ex facie* illegal, violative of principles of natural justice, without jurisdiction and unsustainable. It is also contended by the learned counsel for the petitioner that the subject land is a natham poromboke land and therefore, the proceedings under the Tamil Nadu Land Encroachment Act, 1905 (Tamil Nadu Act 3 of 1905), cannot be initiated against the petitioner.

3.Admittedly, the impugned notice is one issued under Section 7 of the Tamil Nadu Land Encroachment Act, 1905 (Tamil Nadu Act 3 of 1905), calling upon the petitioner to submit his explanation with regard to the alleged encroachment. The petitioner has not submitted



any reply to the impugned notice. Even before submitting a reply, the petitioner has filed this Writ Petition prematurely. However, the learned counsel for the petitioner would submit that the respondents have refused to receive any reply from the petitioner for the impugned notice. As per the provisions of the Tamil Nadu Land Encroachment Act, 1905, only after issuance of a notice under Section 7 of the said Act, final orders of eviction can be passed under Section 6 of the said Act. As seen from the impugned notice, it is only a notice issued under Section 7 of the Tamil Nadu Land Encroachment Act, 1905 (Tamil Nadu Act 3 of 1905). Therefore, it is only a show cause notice. The petitioner will have to submit his reply to the same and the respondents will have to consider the reply on merits and in accordance with law and only thereafter, pass final orders under Section 6 of the Tamil Nadu Land Encroachment Act, 1905.

4.After recording the submissions made by the respective learned counsels, this Writ Petition is disposed of by directing the petitioner to submit a reply to the impugned notice, which is treated as a show cause notice issued under Section 7 of the Tamil Nadu Land Encroachment Act 1905 (Tamil Nadu Act 3 of 1905), within a period of two weeks from the date of receipt of a copy of this order. On receipt of the said reply/explanation, the second respondent shall pass final orders on merits and in accordance with law after affording a fair hearing to the petitioner, including granting him the right of personal hearing, within a period of eight weeks thereafter. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Vacation Officer

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

To

- 1.The District Collector,
Sivagangai District, Sivagangai.
- 2.The Zonal Deputy Tahsildar,
Devakottai Taluk, Sivagangai District.

+1 CC to M/s.R.J.KARTHICK, Advocate (SR-23752[F] dated 19/05/2022)
+1 CC to M/s.SPL.GP (SR-23811[F] dated 19/05/2022)

W.P (MD) No.10215 of 2022
18.05.2022

RS (27.05.2022) 2P-5C

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