



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **25.05.2022**

CORAM:

THE HONOURABLE **MR.JUSTICE R.SURESH KUMAR**
and
THE HONOURABLE **MR.JUSTICE R.VIJAYAKUMAR**

W.P.(MD)No.10520 of 2022

and

W.M.P.(MD)Nos.7643 & 7645 of 2022

T.Arunachalam

...Petitioner

/Vs./

1.The District Collector,
Trichy District,
Trichy.

2.The Executive Officer,
S.Kannanur,
Special Grade Town Panchayat,
Trichy District.

...Respondents

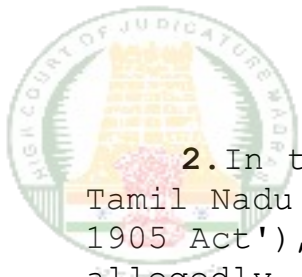
PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records pertaining to the impugned notice issued by the second respondent by his proceedings Na.Ka.No.A2/234/2022 dated 06.05.2022 and quash the same as illegal.

For Petitioner	: Mr.T.Lenin Kumar
For R1	: Mr.S.R.A.Ramachandran Additional Government Pleader
For R2	: Mr.J.Ashok Additional Government Pleader

ORDER

[Order of the Court was made by **R.SURESH KUMAR, J.**]

The prayer sought for in this Writ Petition is for a Writ of Certiorari, challenging the order dated 06.05.2022 issued by the second respondent, who is the Executive Officer of the Special Grade Town Panchayat, S.Kannanur, Trichy District.



2. In the said order dated 06.05.2022, invoking Section 7 of the Tamil Nadu Land Encroachment Act, 1905 (hereinafter referred as 'the 1905 Act'), the second respondent has stated that the petitioner had allegedly encroached the property at Survey No.252 of the second respondent's Town Panchayat limit. Therefore, in order to remove such encroachment, such notice under Section 7 of the 1905 Act was issued. Challenging the same, the present Writ Petition is filed.

3. Heard Mr.T.Lenin Kumar, learned counsel appearing for the petitioner, who would submit that the notice impugned has been issued by the second respondent, who is the Executive Officer of the Special Grade Town Panchayat, invoking the provisions of the 1905 Act. However, the said authority does not have power to invoke the provisions of the 1905 Act, as, if at all any notice against the encroachment has to be issued under Section 7 of the 1905 Act, that shall be done only by the revenue authorities. Here, since the second respondent, who is the local authority, has passed the impugned communication or notice, the same for want of jurisdiction is liable to be interfered with, he contended.

4. Heard Mr.J.Ashok, learned Additional Government Pleader appearing for the second respondent, who would submit that since the land in question comes within the jurisdiction of the Special Grade Town Panchayat of the second respondent, the second respondent has issued notice. However, instead of invoking the provisions of the relevant legislation governing the local bodies like the second respondent, since the notice impugned has been issued invoking the provisions of the 1905 Act, as has been done in the present case, for such infirmity, the order may not be justifiable. But at the same time, the power of the second respondent in taking action against any encroachment in any land comes within the purview of the second respondent cannot be taken away.

5. We have considered the rival submissions made by the learned counsel for both sides.

6. As has been rightly pointed out by the learned counsel for the petitioner, which ofcourse has been accepted by the learned Additional Government Pleader appearing for the second respondent, the second respondent ought not to have invoked the provisions of the 1905 Act for issuance of the notice under Section 7 of the 1905 Act, which is impugned herein.

7. Therefore, for want of jurisdiction, we are of the view that the impugned order dated 06.05.2022 is liable to be set aside. Accordingly, it is set aside. Setting aside the impugned order



shall not preclude the second respondent from initiating any lawful proceedings against the petitioner in accordance with law.

8. With the above observations, this Writ Petition stands disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Vacation Officer /
Assistant Registrar

// True Copy //

28/05/2022

Sub Assistant Registrar (CS)

MYR/SM

To

1. The District Collector,
Trichy District,
Trichy.

2. The Executive Officer,
S. Kannanur,
Special Grade Town Panchayat,
Trichy District.

+1 CC to M/s. T. LENIN KUMAR, Advocate (SR-24135[F] dated 26/05/2022)

+1 CC to M/s. SPL.GP (SR-24177[F] dated 27/05/2022)

Order made in

W. P. (MD) No. 10520 of 2022

Dated: **25.05.2022**

ck (CO)

TR (28.05.2022) 3P 5C