



W.P(MD) No.17734 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.08.2022

CORAM:

**THE HONOURABLE MR.JUSTICE P.N.PRAKASH
and
THE HONOURABLE MRS.JUSTICE R.HEMALATHA**

**W.P.(MD) No.17734 of 2022
and W.M.P(MD) No.12928 of 2022**

K.C.Kanakasabapathi

... Petitioner

-VS-

The Assistant Engineer (WRD),
Public Works Department,
River Safety Division,
Karur.

... Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorari calling for the entire records relating to the order dated 26.07.2022 issued under Section 6 of the Land Encroachment Act, 1905 (Act 3 of Chennai) on the file of the respondent herein and quash the same.

For Petitioner : Mr.K.K.Ramakrishnan

For Respondent : Mr.A.K.Manikkam,
Spl. Government Pleader



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W.P(MD) No.17734 of 2022

ORDER

(Made by P.N.PRAKASH, J.)

Alleging that the respondent has issued the notice dated 26.07.2022 under Section 6 of the Tamil Nadu Land Encroachment Act, 1905 (“the Act” for brevity), without issuing a notice under Section 7 of the Act and further alleging that the petitioner is a lessee under the respondent and not an encroacher, the present writ petition has been filed for quashing the notice dated 26.07.2022.

2. According to the petitioner, he has put up a shed on the bank of river Cauvery on the Erode side for letting it out to people to perform obsequies and other rituals relating to the dead.

3. The petitioner has not produced any such deed or lease agreement to show that he is a lessee under the respondent. He has merely produced copies of receipt issued by the Assistant Engineer, PWD, W.R.D.RC.Section, Karur, to show that he is a lessee.

4. Today, Mr.E.Kavinraj, Telephone Clerk, W.R.D, Karur, is present before this Court.



W.P(MD) No.17734 of 2022

WEB COPY

5. A perusal of the notice dated 26.07.2022 shows that a show-cause notice has been issued on 25.07.2022. However, we find that after issuing the said show-cause notice on 25.07.2022, without giving any time to the petitioner, the present eviction notice has been passed on 26.07.2022 under Section 6 of said Act. Hence, on this short ground, the impugned notice dated 26.07.2022 is liable to be set aside. However, the notice dated 26.07.2022 will be treated as the notice under Section 7 of the Act and ten days time from today is given to the petitioner to submit his objections, if any, to the respondent and thereafter, it is open to the respondent to pass appropriate orders in accordance with law.

6. With the above directions, this writ petition stands disposed of.
No costs. Consequently, the connected miscellaneous petition is closed.

[P.N.P., J.] [R.H., J.]
10.08.2022

Index : Yes / No
Internet : Yes / No

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W.P(MD) No.17734 of 2022

P.N.PRAKASH, J.
and
R.HEMALATHA, J.

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To:

The Assistant Engineer (WRD),
Public Works Department,
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W.P.(MD) No.17734 of 2022

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