



W.P.(MD) No.22978 & 23169 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.11.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

and

THE HONOURABLE MR.JUSTICE J.SATHYA NARAYANA PRASAD

W.P.(MD)Nos.22978 & 23169 of 2022
and W.M.P.(MD)Nos.17068, 17069 & 17265 of 2022

Kalimuthu

... Petitioner in
W.P.(MD)No.22978/2022

Tasleem Begum

... Petitioner in
W.P.(MD)No.23169/2022

Vs.

The Tahsildar,
Karaikudi Taluk,
Sivagangai District.

... Respondent in
both W.Ps.

COMMON PRAYER : Petitions filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records relating to the impugned order of eviction made by the respondent in his proceedings dated 19.09.2022 and quash the same as illegal.

Page 1 of 6



WEB COPY

W.P.(MD) No.22978 & 23169 of 2022

For Petitioner : Mr.M.Mahaboob Athiff
(In both W.Ps)

For Respondent : Mr.G.V.Vairam Santhosh,
(In both W.Ps) Addl. Govt. Pleader

COMMON ORDER

[Order of the Court was made by R.MAHADEVAN, J.]

Challenging the impugned eviction notice issued by the respondent dated 19.09.2022, the petitioners have filed this Writ Petition.

2. It is the specific contention of the learned counsel for the petitioners that without issuing any show cause notice under the Tamil Nadu Land Encroachment Act, 1905 (hereinafter referred to as 'the Act') calling for the objections of the petitioners, the present impugned eviction notices have been issued and therefore, the impugned notices are liable to be set aside.



W.P.(MD) No.22978 & 23169 of 2022

WEB COPY 3. Section 7 of the Act mandates that prior notice to person in occupation has to be issued before taking proceedings under Section 6 of the Act. The notice has to specify the extent of the land so occupied and calling upon the encroacher to show cause before a certain date that why should he not be proceeded with under Section 6 of the Act and the said notice also to be served in the manner prescribed under Section 25 of the Tamil Nadu Revenue Recovery Act, 1864.

4. Section 6(2) of the Tamil Nadu Land Encroachment Act, 1905, further provides that an eviction under this Section shall be made in the manner prescribed. By serving a notice in the manner provided in Section 7 of the Act on the person who has encroached the land requiring him to give his objections before the authorities, the District Collector would hold a summary enquiry into the facts of the case. Only after the enquiry, if the objections are not accepted, the order of eviction has to be passed which is also appealable under Section 10 of the Act before the District Collector.



W.P.(MD) No.22978 & 23169 of 2022

WEB COPY 5. At this juncture, the learned counsel for the respondent fairly submitted that the impugned notices may be treated as show cause notices and the petitioners may be directed to submit their objections, which will be considered by the authorities concerned and only then, appropriate action will be taken for removal of encroachment, if any, in the place in question.

6. Recording the above submission, the impugned notices are treated as show cause notices and the petitioners are directed to file their objections / reply to the same before the authorities concerned, along with all supporting materials, within a period of two (2) weeks from the date of receipt of a copy of this order. After receipt of the same, the authorities concerned shall consider such objection and if it is not satisfactory, then conduct a proper enquiry and thereafter, shall pass orders for eviction of encroachment, if any, by due process of law within a period of four weeks thereafter. Till such time, *status quo* prevailing as on date shall be maintained by both parties.

8. With the above direction, these Writ Petitions are disposed of. No



W.P.(MD) No.22978 & 23169 of 2022

costs. Consequently, connected miscellaneous petitions are closed.

[R.M.D., J.] [J.S.N.P., J.]

17.11.2022

vsm

To

The Tahsildar,
Karaikudi Taluk,
Sivagangai District.

R.MAHADEVAN, J.
and



WEB COPY



W.P.(MD) No.22978 & 23169 of 2022

J.SATHYA NARAYANA PRASAD, J.

vsm

W.P.(MD)Nos.22978 & 23169 of 2022

17.11.2022