



W.P.(MD)No.24032 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.10.2022

CORAM

THE HONOURABLE MR.JUSTICE **R.MAHADEVAN**
and
THE HONOURABLE MR.JUSTICE **J.SATHYA NARAYANA PRASAD**

W.P(MD)No.24032 of 2022
W.M.P.(MD) No.18136 of 2022

Murugesan

... Petitioner

Vs.

1.The District Collector,
Trichy District.

2.The Tahsildar,
Tiruverumbur Taluk,
Trichy District.

3.The Revenue Inspector,
Tiruverumbur Taluk,
Trichy District.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records of the impugned notice dated 12.10.2022 on the file of the 3rd respondent and quash the same and further directing the Respondents to permit the Petitioner and his family to continue to cultivate the said land on the payment of penalty in considering the petitioner's representation dated 09.10.22.

For Petitioner

: Mr.G.Prabhu Rajadurai



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For Respondents

: Mr.S.P.Maharajan
Special Government Pleader

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ORDER

(Order of the Court was made by **R.MAHADEVAN, J.**)

The petitioner has come forward with this writ petition, challenging the notice dated 12.10.2022, issued by the 3rd respondent under Section 7 of Tamil Nadu Land Encroachment Act, 1905, and consequently, for a direction to the respondents to permit him and his family members to continue to cultivate the land on payment of penalty, by considering his representation dated 09.10.2022.

2. Heard Mr.G.Prabhu Rajadurai, learned counsel for the petitioner and Mr.S.P.Maharajan, learned Special Government Pleader, who accepts notice on behalf of the respondents.

3. The petitioner has challenged the notice issued by the 3rd respondent dated 12.10.2022, under Section 7 of Tamil Nadu Land Encroachment Act, 1905, on the grounds that the third respondent has no jurisdiction to issue the notice, the petitioner's family members are using the land only for the purpose of paddy



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cultivation for generations and presently, the said land is not required by the Government for any of its purpose.

4. The notice under Section 7 of the Act of 1905 is in the form of a show cause notice. The person aggrieved has to reply to the said notice. Though the petitioner has assailed the impugned notice contending that the third respondent has no jurisdiction to issue the impugned notice, Section 7 of Tamil Nadu Land Encroachment Act, 1905, itself clearly states that the Collector or Tahsildar or Deputy Tahsildar or Revenue Inspector or any other authorised officer by the State Government in this behalf can initiate proceedings under Section 7. In this case, the third respondent is the Revenue Inspector of the Taluk concerned and therefore the said contention is untenable. It is well settled that writ against show cause notice can be questioned only on the grounds of jurisdiction, and malafide. In the present case, as stated above, the petitioner has not established the jurisdiction point and therefore, the writ petition is not maintainable. However, the petitioner is directed to submit his objections to the impugned notice within two weeks from the date of receipt of a copy of this order. On such filing of the objections by the petitioner, the third



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respondent is directed to consider the same and pass appropriate orders on merits and in accordance with law, within a period of eight weeks from the date of receipt of the objections from the petitioner.

5. The Writ Petition stands disposed of with the above directions. No costs. Consequently, connected Miscellaneous Petition is closed.

[R.M.D., J.] [J.S.N.P., J.]
19.10.2022

Internet : Yes / No
Index : Yes / No
sj

To

- 1.The District Collector,
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Trichy District.
- 3.The Revenue Inspector,
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and

J.SATHYA NARAYANA PRASAD, J.

sj

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