



W.P.(MD) Nos.24562 to 24566 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.10.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

and

THE HONOURABLE MR.JUSTICE J.SATHYA NARAYANA PRASAD

W.P.(MD) Nos.24562 to 24566 of 2022

and

W.M.P.(MD)Nos.18641, 18644, 18643, 18646, 18642 of 2022

Tamilarasan

... Petitioner in
W.P.(MD)No.24562/2022

Rajangam

... Petitioner in
W.P.(MD)No.24563/2022

Puthirasigamani

... Petitioner in
W.P.(MD)No.24564/2022

Kabilan

... Petitioner in
W.P.(MD)No.24565/2022

Satyaseelan

... Petitioner in
W.P.(MD)No.24566/2022

Vs.



W.P.(MD) Nos.24562 to 24566 of 2022

The Assistant Engineer,
P.W.D / W.R.O,
Irrigation Section,
Alangudi,
Pudukottai District.

... Respondent in
all 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 with Form III notice, for removal of encroachment, dated Nil, issued by the respondent to the petitioners on 10.10.2022, relates to the alleged encroachment in the water channel, Annadhana Kaveri Vaikol in S.Nos.88, 89, 91, 92, 93, 112, 113, 116 & 117 in Senthankudi in Pudukottai District and quash the same as it is arbitrary and illegal.

For Petitioners	:	Mr.R.Suriyanarayanan
(In all W.Ps)		
For Respondent	:	Mr.G.V.Vairam Santhosh,
(In all W.Ps)		Addl. Govt. Pleader.

ORDER

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

By consent, these Writ Petitions are taken up for final disposal.



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2. Challenging the Form III notices issued under Section 6(1) of the Tamil Nadu Land Encroachment Act, 1905 (hereinafter referred to as 'the Act'), these Writ Petitions have been filed.

3. The learned counsel appearing for the petitioners submitted that the proceedings under Section 6(1) of the Act have to be followed by issuing show cause notices calling for the objections of the petitioners and if such objections are not acceptable, a proper enquiry has to be conducted only then, eviction order can be passed. However, without following the procedure contemplated under Section 7 of the Act, the respondent has issued the impugned Form III Notices under Section 6(1) of the Act, directing the petitioners to remove the encroachment within 21 days and they are liable to be set aside, on the ground of violation of principles of natural justice.

4. Heard the submission of the learned Special Government Pleader appearing for the respondent and perused the records available on record.



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WEB COPY 5. Section 7 of the Tamil Nadu Land Encroachment Act, 1905, 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.

6. It has been time and again held by this Court that non-issuance of such notice would be vitiate the entire proceedings. All the eviction notices that are impugned in these writ petitions are verbatim the same excepting the name of the occupants and the extent. The said notices direct the petitioners to remove the encroachments within 21 days failing which the same would be removed by the department.

7. 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



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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.

8. The impugned notices admittedly have not followed any of the procedure prescribed under the Act and straightaway ordered for eviction. Though it is styled as Form III notices issued under Section 6(1) of the Act, the contents thereof state that the petitioners will be evicted, that is, without issuing the show cause notice as contemplated under Section 7 of the Act, which vitiates the entire proceedings.

9. At this juncture, the learned counsel for the respondent submitted that the impugned notices may be directed as show cause notices and the petitioners may be directed to submit their explanations / objections which will be



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considered by the authorities concerned and only then eviction order will be issued by due process of law.

10. Recording the aforesaid submission, the impugned notices are treated as show cause notices and the petitioners are directed to file their objections / replies 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 objections and if they are not satisfactory, then conduct a proper enquiry and thereafter, shall pass orders of eviction on merits and in accordance with law, within a period of six weeks thereafter. Till such time, status quo prevailing as on date shall be maintained by both parties.

11. With the above direction, these Writ Petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

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



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To

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