



W.P.Nos.12000 and 19193 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.11.2023

CORAM :

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE
AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.Nos.12000 and 19193 of 2023

W.P.No.12000 of 2023:

Manuel Iruthayanathan

.. Petitioner

VS

- 1.The District Collector,
Thiruvallur District,
Thiruvallur.
- 2.The Tahsildar,
Thiruvallur Taluk Office,
Thiruvallur.
- 3.The Block Development Officer,
Block Development Office,
Kadambathur,
Tiruvallur-631 203.
- 4.The Revenue Inspector,
Mappedu Firka,
Thiruvallur District.



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5.The Panchayat President,
Ulunthai Village Panchayat,
Kadambathur Panchayat Union,
Tiruvallur-602 105.

.. Respondents

W.P.No.19193 of 2023:

Manuel Iruthayanathan

.. Petitioner

VS

1.The Secretary,
Government of Tamilnadu,
Rural Development and Panchayat Raj,
Fort St. George,
Chennai.

2.The District Collector,
Thiruvallur District,
Thiruvallur.

3.The Commissioner,
Kadambathur Panchayat Union,
Tiruvallur District-631 203.

4.The Block Development Officer,
Village Panchayat,
Kadambathur,
Tiruvallur.

5.The Panchayat President,
Ulunthai Village Panchayat,
Kadambathur Panchayat Union,
Tiruvallur-602 105.

.. Respondents



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Prayer in W.P.No.12000 of 2023 : Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorarified mandamus calling for the impugned order of the fourth respondent in Na.Ka.No.05/2023/B3 dated 29.03.2023, quash the same as being without jurisdiction and consequently restrain the respondents from in any manner interfering in Survey No.357/14 Ulunthai Main Road, Ulunthai Village, Thiruvallur Taluk.

Prayer in W.P.No.19193 of 2023 : Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorarified mandamus calling for the impugned order of the fifth respondent show cause notice No.1/2022-2023 dated 17.02.2023 and quash the same as being without jurisdiction and consequently restrain the respondents from in any manner interfering with the peaceful operation and running of the factory in Survey No.357, Ulunthai Main Road, Thiruvallur Taluk and District.

For the Petitioner	: Mrs.R.Dakshayani Reddy Senior Counsel for Mr.Jerry V.V.Sundar
For the Respondents	: Mr.P.Muthukumar State Government Pleader assisted by Mrs.R.Anitha Spl. Government Pleader for respondents 1 to 4



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: Mr.R.Abdul Mubeen
for respondent No.5

ORDER

(Order of the court was made by the Hon'ble Chief Justice)

Heard Mrs.R.Dakshayani Reddy, learned Senior Counsel for Mr.Jerry V.V.Sundar, learned counsel for the petitioner; Mr.P.Muthukumar, learned State Government Pleader, assisted by Mrs.R.Anitha, learned Special Government Pleader for respondents 1 to 4; and, Mr.R.Abdul Mubeen, learned counsel for the fifth respondent in both writ petitions.

2. The petitioner is challenging the notice issued under Section 7 of the Tamil Nadu Land Encroachment Act, 1905 (for brevity, "*the Act of 1905*").

3. Learned Senior Counsel for the petitioner submits that the notice has been issued without jurisdiction. The provisions of Sections 7 and 6 of the Act of 1905 can be invoked only if the



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property is a government property. The property in question is a “grama natham” land. As such, the government authorities did not possess jurisdiction to issue the notice. The notice under the Tamil Nadu Panchayats Act, 1994 (for brevity, “*the Act of 1994*”) is also without jurisdiction.

4. Per contra, learned counsel for the fifth respondent submits that the property in question is a government poramboke land and, as such, the notice has been rightly issued.

5. Notice under Section 7 of the Act of 1905 is in the nature of show cause notice inviting the say from the noticee. The petitioner has an opportunity to file reply along with all documents to substantiate his case. Naturally, before passing the order under Section 6 of the Act of 1905, the authority has to consider the reply and the documents filed by the petitioner. So also, if notice is under the Act of 1994, the same be construed as a show cause notice and the petitioner may file reply to the same.



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6. In the light of that, the petitioner may file reply to the notice under Section 7 of the Act of 1905 and/or to the notice under the Act of 1994 within seven days from today. The authority shall consider the reply and the documents filed by the petitioner and take decision on its own merits and in accordance with law while proceeding under Section 6 of the Act of 1905 and/or the Act of 1994. In that event, all contentions of the respective parties are kept open.

7. With these observations, the writ petitions are disposed of. There will be no order as to costs. Consequently, W.M.P.Nos.11852, 11854, 11855, 11425 and 18426 of 2023 are closed.

(S.V.G., CJ.)

(D.B.C., J.)

08.11.2023

Index : Yes/No
Neutral Citation : Yes/No
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