



W.P.Nos.14516, 14522, 14526, 14528, 14530 & 14534 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.05.2023

CORAM

THE HONOURABLE MR.A.D.JAGADISH CHANDIRA
and

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.Nos.14516, 14522, 14526, 14528, 14530 & 14534 of 2023
and

W.M.P.Nos.14001, 14003, 14007, 14008, 14009 & 14011 of 2023

D.Viswanathan S/o. Late Duraivel	.. Petitioner in W.P.No.14516 of 2023
Nagaraj S/o.Swaminathan	.. Petitioner in W.P.No.14522 of 2023
D.Pachayammal W/o.S.Durai	.. Petitioner in W.P.No.14526 of 2023
Saroja W/o.D.Raja	.. Petitioner in W.P.No.14528 of 2023
D.Viswanathan S/o. Late Duraivel	.. Petitioner in W.P.No.14530 of 2023
V.Karthikeyan S/o. S.Vijayakumar	.. Petitioner in W.P.No.14534 of 2023

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Vs.

1. The Secretary to Government,
Revenue Department,
Fort St.George, Secretariat,
Chennai-600 009.
2. The District Collector,
Office of the District Collector,
Chennai – 600 001.
3. The Chairman and Managing Director,
Chennai Metro Rail Limited,
CMRL Depot, Ponamallee High Road,
Koyambedu, Chennai - 600 107.
4. The Tahsildar,
Perambur Taluk Office,
Chennai – 600 011.

.. Respondents in all W.P.s.,

Prayer in W.P.No.14516 of 2023 : Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorari to call for the records pertaining to the impugned order passed by the fourth respondent under Section 6 of the Tamil Nadu Land Encroachment Act, 1905 dated 25.03.2023 pertaining to the petitioner's property (House) measuring around 334.5 Square Meters i.e., 3599 Square feet in Block No.1, TS No.2, Erukkencherry Village, Perambur Taluk, Chennai bearing Door No.17/28, Satyavani Muthu Street, Erukkencherry, Moolakadai, Chennai – 600118 and quash the same as illegal and arbitrary.



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Prayer in W.P.No.14522 of 2023 : Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorari to call for the records pertaining to the impugned order passed by the fourth respondent under Section 6 of the Tamil Nadu Land Encroachment Act, 1905 dated 25.04.2023 pertaining to the petitioner's property measuring around 97 Square Meters i.e., 1044 Square feet in Block No.1, TS No.2, Erukkencherry Village, Perambur Taluk, Chennai bearing Door No.10, Satyavani Muthu Street, Erukkencherry, Moolakadai, Chennai – 600118 and quash the same as illegal and arbitrary.

Prayer in W.P.No.14526 of 2023 : Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorari to call for the records pertaining to the impugned order passed by the fourth respondent under Section 6 of the Tamil Nadu Land Encroachment Act, 1905 dated 25.04.2023 pertaining to the petitioner's property measuring around 200 Square Meters i.e., 2152 Square feet in Block No.1, TS No.2, Erukkencherry Village, Perambur Taluk, Chennai bearing Door No.32/15, Satyavani Muthu Street, Erukkencherry, Moolakadai, Chennai – 600118 and quash the same as illegal and arbitrary.

Prayer in W.P.No.14528 of 2023 : Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorari to call for the records pertaining to the impugned order passed by the fourth respondent under Section 6 of the Tamil Nadu Land Encroachment Act,



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1905 dated 25.04.2023 pertaining to the petitioner's property measuring around 225 Square Meters i.e., 2626 Square feet in Block No.1, TS No.2, Erukkencherry Village, Perambur Taluk, Chennai bearing Door No.34, Satyavani Muthu Street, Erukkencherry, Moolakadai, Chennai – 600118 and quash the same as illegal and arbitrary.

Prayer in W.P.No.14530 of 2023 : Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorari to call for the records pertaining to the impugned order passed by the fourth respondent under Section 6 of the Tamil Nadu Land Encroachment Act, 1905 dated 25.04.2023 pertaining to the petitioner's property measuring around 155.0 Square Meters i.e., 1667 Square feet in Block No.1, TS No.2, Erukkencherry Village, Perambur Taluk, Chennai bearing Door No.17/28 Satyavani Muthu Street, Erukkencherry, Moolakadai, Chennai – 600118 and quash the same as illegal and arbitrary.

Prayer in W.P.No.14534 of 2023 : Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorari to call for the records pertaining to the impugned order passed by the fourth respondent under Section 6 of the Tamil Nadu Land Encroachment Act, 1905 dated 25.04.2023 pertaining to the petitioner's property measuring around 55.5 Square Meters i.e., 597 Square feet in Block No.1, TS No.2, Erukkencherry Village, Perambur Taluk, Chennai bearing Door No.11, Satyavani Muthu Street, Erukkencherry, Moolakadai, Chennai – 600118 and quash the same as illegal and arbitrary.



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For Petitioners in all W.P.s : Mr.Adinarayana Rao
For Respondents in all W.P.s : Mr.J.Ravindran
Additional Advocate General
assisted by,
Mr.A.Selvendran,
Special Government Pleader
for R1, R2 & R4

COMMON ORDER

A.D.JAGADISH CHANDIRA, J.,

and

C.SARAVANAN, J.,

The petitioners have challenged the impugned notices dated 25.05.2023 & 25.04.2023 respectively, issued purportedly under Section 6 of 'the Tamil Nadu Land Encroachment Act, 1905' [hereinafter 'said Act' for the sake of brevity].

2. The learned counsel for the petitioners submits that coercive steps are to be taken pursuant to the impugned notices.

3. The learned Additional Advocate General for the respondents submits that the writ petitions can be disposed of by directing the petitioners to file statutory appeals under Section 10 of the said Act.



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4. A reading of the above impugned notices indicates that they are only notices issued under the said Act. However, in it, it is concluded that the petitioners have encroached over the land. In case the impugned notices are concluded as orders passed, the petitioners have an alternate remedy before the second respondent – District Collector under Section 10 of the said Act.

5. We are of the view that though the impugned proceedings were titled as notice, they are in the nature of order under Section 6 of the said Act. There is a pre-determination that the petitioners are encroachers. The impugned proceedings cannot be construed as having passed under Section 6 of the said Act as the petitioners have not been given an opportunity to reply or give their representation and thus in violation of principles of natural justice.

6. Therefore, the impugned proceedings shall be treated as notices issued under Section 7 of the said Act to the respective petitioners. The



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petitioners are therefore directed to give their reply to the said notices within a period of fifteen days from the date of receipt of a copy of this order. The respondents shall thereafter pass order after following principles of natural justice.

7. In case any adverse orders are passed, the petitioners can always file appeal before the second respondent – District Collector under Section 10 of the Act. If such appeals are filed, they shall be disposed of by the second respondent – District Collector. Pending such exercise, all coercive steps shall be kept in abeyance.

8. These writ petitions are disposed of. There shall be no order as to costs.

(A.D.J.C.,J.) (C.S.N.,J.)
04.05.2023

Index : Yes / No
Speaking / Non-speaking
Neutral Citation : Yes / No
ham/mk/jen

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Revenue Department,
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Chennai-600 009.
2. The District Collector,
Office of the District Collector,
Chennai – 600 001.
3. The Chairman and Managing Director,
Chennai Metro Rail Limited,
CMRL Depot, Ponamallee High Road,
Koyambedu, Chennai - 600 107.
4. The Tahsildar,
Perambur Thaluk Office,
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