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*W.P.Nos.15313, 15315, 15316 & 15317 of 2023*

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.05.2023

CORAM:

THE HONOURABLE DR.JUSTICE ANITA SUMANTH  
and  
THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

W.P.Nos.15313, 15315, 15316 & 15317 of 2023  
and  
W.M.P.Nos. 14814, 14815, 14818 & 14817 of 2023

S.Venkatachalapathy

..Petitioner  
in W.P.Nos.15313 & 15317 of 2023

Madhan @ Madhankumar

.. Petitioner  
in W.P.Nos.15315 & 15316 of 2023

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,  
Koyembedu, Chennai – 600 107.

4.The Tahsildar  
Perambur Thaluk Office,  
Chennai – 600 011.

..Respondents  
in all writ petitions



*W.P.Nos.15313, 15315, 15316 & 15317 of 2023*

Prayer in W.P.No.15313 of 2023: Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorari to call for the records pertaining to the impugned order passed by the 4<sup>th</sup> respondent under Section 6 of the Tamil Nadu Land Encroachment Act, 1905 dated 05.04.2023 pertaining to the petitioner's property measuring around 55.5 Sq m i.e., 592 Sq ft in Block No.32, S.No.37, Kodungaiyur Village, Perambur Thaluk, Chennai District bearing Door No.45 & 46, Kodungaiyur, Moolakadai, Chennai 600 118 and quash the same as illegal and arbitrary.

Prayer in W.P.No.15315 of 2023 : Writ petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorari to call for the records pertaining to the impugned order passed by the 4<sup>th</sup> respondent Under Section 6 of the Tamil Nadu Land Encroachment Act 1905 dated 25.04.2023 pertaining to the petitioners property measuring around 9.0 Square Meters i.e. 97 Square feet in Block No 1 TS No-2 Erukkencherry village Perambur Thaluk Chennai District bearing Door No.1, Satyavani Muthu Street, Erukencherry, Moolakadai, Chennai 600 118 and quash the same as illegal and arbitrary.

Prayer in W.P.No.15316 of 2023 : Writ petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorari to call call for the records pertaining to the impugned order passed by the 4<sup>th</sup> respondent Under Section 6 of the Tamil Nadu Land Encroachment Act 1905 dated 25.04.2023 pertaining to the petitioner's property measuring around 81.7 Square meters i.e. 879 Square feet in Block No.1 TS No.2 Erukkencherry Village Perambur Thaluk Chennai District bearing Door No.1 Satyavani Muthu Street, Erukencherry , Moolakadai, Chennai- 600 118 and quash the same as illegal and arbitrary.

Prayer in W.P.No.15317 of 2023 : Writ petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorari to call call for the records pertaining to the impugned order passed by the 4<sup>th</sup> respondent Under Section 6 of the Tamil Nadu Land Encroachment Act 1905 dated 05.04.2023 pertaining to the petitioners property measuring around 5.1 Square Meters i.e. 55 Square feet in Block No. 32 S.No.37 Kodungaiyur Village Perambur Thaluk Chennai District bearing Door No.45 & 46 Kodungaiyur, Moolakadai, Chennai 600 118 and quash the same as illegal and arbitrary.



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For Petitioner : Mr.Adinarayana Rao  
in all W.Ps

For Respondents : Mrs.S.Mythraye Chandru  
Special Government Pleader  
for R1, R2 and R4

COMMON ORDER  
(Made by DR.ANITA SUMANTH.,J)

On 04.05.2023, this Court disposed of a writ petition in W.P.No.14671 of 2023 referring to a batch of Writ Petitions in W.P.Nos.14516 of 2023 etc., The relevant portion of the said order reads as under:-

*"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 predetermination 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.””*

2. As the present Writ Petitions also arise out of the similar proceedings initiated against the petitioners, we dispose of the present Writ Petitions in terms of the order in W.P.No.14671 of 2023 dated 04.05.2023. No costs. Connected miscellaneous petitions are closed.

(A.S.M., J.) (M.N.K., J.)  
11.05.2023

Index:Yes/No  
Neutral Citation : Yes/No  
mmi/ssm

To

1.The Secretary to Government  
Revenue Department  
Fort St.George, Secretariat,  
Chennai – 600 009.



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DR.ANITA SUMANTH.,J  
and  
M.NIRMAL KUMAR.,J

ssm

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