



W.P.No.14671 of 2023

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.No.14671 of 2023

and

W.M.P.No.14157 of 2023

S.Venkatachalapathy
S/o.Late C.Sriramulu Naidu

.. Petitioner

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 Deport, Ponamallee High Road,
Koyambedu, Chennai - 600 107.
4. The Tahsildar,
Perambur Thaluk Office,
Chennai – 600 011.

..Respondents



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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 05.04.2023 pertaining to the petitioner's property measuring around 7.4 Square Meters i.e., 78 Square feet in Block No.32, S.No.37, Kodungaiyur village, Perambur Taliuk, Chennai District bearing Door – 45 & 46, Kodungaiyur, Moolakadai, Chennai – 600118 and quash the same as illegal and arbitrary.

For Petitioner	:	Mr.Adinarayana Rao
For Respondents	:	Mr.J.Ravindran Additional Advocate General assisted by, Mr.A.Selvendran, Special Government Pleader for R1, R2 & R4

ORDER

A.D.JAGADISH CHANDIRA, J.,
and
C.SARAVANAN, J.,

Today, by a separate order, we have disposed of 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



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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 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.



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2. As the present Writ Petition also arises out of the similar proceedings initiated against the petitioner, we dispose of the present Writ Petition in terms of the order in W.P.Nos.14516 of 2023 etc. batch. 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

To

1. The Secretary to Government,
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Chennai-600 009.
2. The District Collector,
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3. The Chairman and Managing Director,
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