



WP No.22202 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.08.2023

CORAM

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

AND

THE HON'BLE MR.JUSTICE P.D.AUDIKEVALU

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Thirugnanasambandam

: Petitioner

versus

- 1.The District Collector,
Ariyalur District
- 2.The District Revenue Officer,
Collector Office, Ariyalur
- 3.The Revenue Divisional Officer,
Udaiyarpalayam,
Ariyalur District
- 4.The Tahsildar,
Senthurai Taluk,
Ariyalur District
- 5.The Revenue Inspector,
R.S.Mathur,
Senthurai Taluk,
Ariyalur District
- 6.The Village Administrative Officer,
Manappaththur Village,
Senthurai Taluk, Ariyalur District

: Respondents



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Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the respondents 3 to 5 to handover vacant possession of the above property comprised in S.No.132/9 and also direct the respondents to give compensation of Rs.5,00,000/- to the petitioner.

For the Petitioner : Ms.S.Suseela Devi

For the Respondents : Mrs.R.Anitha,
Special Government Pleader

ORDER

(Made by the Hon'ble Chief Justice)

We have heard Ms.S.Suseela Devi, learned counsel for the petitioner and Mrs.R.Anitha, learned Special Government Pleader, for the respondents.

2. The petitioner was issued with a notice under Section 7 of the Tamil Nadu Land Encroachment Act, 1905 (for short, 'the Act'), on 21.04.2023. The petitioner sent a legal notice to the respondents on 29.04.2023. The shed put-up by the petitioner was demolished on 30.05.2023. The learned counsel for the petitioner submits that no order under Section 6 of the Act was passed. Still, the shed of the petitioner was illegally demolished. The petitioner was residing there for the past more than 80 years. The land is a grama natham land. According to the learned counsel, as the shed of the petitioner was demolished without following the due process of law, the petitioner is entitled for compensation of Rs.5,00,000/- (Rupees Five Lakhs only).



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3. Mrs.R.Anitha, learned Special Government Pleader, submits that the land in question is encroached by the petitioner and a shed has been put-up illegally. The subject-land is 'Kali natham' and not 'grama natham'. Notice under Section 7 of the Act was issued to the petitioner. He did not file a reply and as such, on 30.05.2023, the shed put-up by the petitioner was removed.

4. We have considered the submissions made by the learned counsel for the petitioner.

5. It is trite that when the statute and/or rules require a particular act to be done in a particular manner, the same has to be done in that manner only and not otherwise.

6. In the present case, though notice under Section 7 of the Act was issued to the petitioner on 21.04.2023, the petitioner issued a legal notice upon receipt of that notice. However, no order under Section 6 of the Act was passed, and without passing order under Section 6 of the Act, the shed of the petitioner was demolished on 30.05.2023.

7. Law prescribes that after notice under Section 7 of the Act is issued, order under Section 6 of the Act is required to be passed and against the order



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under Section 6 of the Act, a party is entitled to file an appeal under Section 10 of the Act.

8. Even if it is assumed that the petitioner was an encroacher, the respondents are required to follow the procedure in accordance with law and ought to have considered the grounds raised in the legal notice. Thereafter, they ought to have passed an order under Section 6 of the Act. It is only pursuant to the order under Section 6 of the Act, the respondents could have taken further action.

9. As action has been taken without properly adhering to the provisions of law, and even without passing order under Section 6 of the Act, we are inclined to grant compensation to the petitioner. The respondent authority shall pay Rs.50,000/- (Rupees Fifty Thousand only) as compensation to the petitioner, within one month from today.

10. The petitioner may file a reply to the notice issued under Section 7 of the Act within seven days from today. After the receipt of reply, the respondents may pass orders in accordance with law, naturally, after considering the reply filed by the petitioner and the defences raised by him.



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11. Depending upon the order passed, the parties may take further steps.

Until an order is passed under Section 6 of the Act, *status quo* as on date, with regard to the subject land be maintained.

13. The writ petition as such stands disposed of. There will be no order as to costs.

(S.V.G., CJ.)

(P.D.A., J.)

16.08.2023

Index : Yes/No
Neutral Citation : Yes/No
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