



WEB COPY



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.06.2023

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P No.18846 of 2023
and W.M.P No.18087 of 2023

P.Gosalraman

Petitioner

VS.

1.The District Collector,
First Floor, New Collectorate Building,
Collectorate Manjakuppam,
Cuddalore – 607 001.

2.The Tahsildar,
Taluk Office Road,
Panruti Taluk, Cuddalore – 607 001.

3.The Block Development Officer,
Annagramam Panchayat Union Office,
Annagramam, Cuddalore – 607 001.

4.The Executive Officer/Village Panchayat President,
Kanisapakkam Village Panchayat,
Panruti – 607 106.

5.The Commissioner of Land Administration Department,
Land Administration Department,
Ezhilagam, Chennai – 600 005.

Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the entire records connected with the impugned undated notices issued by the 4th respondent under section 6 of the Tamil Nadu Land Encroachment Act, 1905 and quash the same and



also consequently, direct the 5th respondent to assign the Government poramboke land bearing Survey Nos.55/2, 56/1 measuring of an extent of about 6 cents by receiving cost of the land as per the petitioner's representation dated 20.03.2023.

For Petitioner : Mr.C.Rajaguru

For Respondents : Mr.S.Mythreye Chandru
Special Government Pleader

ORDER

The issue involved in this writ petition is covered by the earlier order passed by this Court and hence, the main writ petition itself is taken up for final hearing.

2.The subject matter of challenge in the present writ petition pertains to the impugned notice issued by the 4th respondent under Section 6 of the Tamil Nadu Land Encroachment Act, 1905 (herein after called as “the Act”) to evict the petitioner from the subject property.

3.The learned Special Government Pleader appearing on behalf of the respondents 1, 2 and 4 submitted that the petitioner has encroached upon a Government land and hence, steps were taken to evict the petitioner by issuing notice under Section 6 of the Act. To substantiate the same, the learned Special Government Pleader also produced the relevant revenue records.

4.The only issue to be considered by this Court is as to whether the notice can be issued by the 4th respondent under Section 6 of the Act. This issue is longer *res*



integra by virtue of the earlier order passed in W.P.No.2113 of 2009, dated 08.08.2022, wherein, this Court has held that it is only the Tahsildar who can issue notice under the Act and proceed further in accordance with law. Therefore, if at all the petitioner is encroaching upon a Government land, it is only the concerned authority empowered under the Encroachment Act, who can initiate action. Hence, the impugned notice issued by the 4th respondent suffers from lack of jurisdiction.

5.In the light of the above discussion, the impugned notice issued by the 4th respondent under Section 6 of the Act is hereby quashed. It is left open to the concerned authority under the Act to initiate fresh proceedings if the petitioner is found to have encroached upon the Government land and proceed further in accordance with law.

6.In the result, this writ petition stands allowed with the above direction. No Costs. Consequently, connected miscellaneous petition is closed.

26.06.2023

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No
ssr



N. ANAND VENKATESH, J.

SSR

To

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