



W.P.No.20847 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.07.2023

CORAM :

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

AND

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

W.P.No.20847 of 2023

1. Yakna Prasad
2. Vallaraj
3. jegatheesan

.. Petitioners

Vs.

1. The District Collector
Tiruvallur District
Tiruvallur.
2. The Tahsildar
Uthukottai Taluk
Tiruvallur District.
3. The Revenue Inspector
Pennalurpettai Revenue Range
Tiruvallur District.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India seeking a writ of Certiorarified Mandamus calling for the records pertaining to the impugned notice dated 28.02.2023 issued under Section 6 of Land Encroachment Act in Na.Ka.285/2023/A2 by the second respondent, as a sequel to notice dated 07.02.2023 issued by the third respondent under Section 7 of Land Encroachment Act, 1905 and quash the same and consequently, restrain the respondents not to



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proceed further, without disposing of the representation dated 11.05.2023.

For the Petitioners : Mr.Durai Kannan

For the Respondents : Mrs.R.Anitha
Special Government Pleader
Assisted by
K.M.D.Muhilan
Additional Government Pleader

ORDER

(Made by the Hon'ble Chief Justice)

We have heard Mr.Durai Kannan, learned counsel for the petitioners and Mrs.R.Anitha, learned Special Government Pleader, assisted by K.M.D.Muhilan, learned Additional Government Pleader for the respondents.

2. The petitioners are assailing the action under Section 6 of the Tamil Nadu Land Encroachment Act.

3. Learned counsel for the petitioners submits that the procedure under the Tamil Nadu Land Encroachment Act has not been followed. Notice under Section 7 was issued. Even 15 days time was not granted



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and before completion of 30 days, notice under Section 6 was issued.

No appropriate opportunity has been given to the petitioners. The notice under Section 6 was not served on the petitioners. It was pasted on the wall of the petitioners' house. In view of that, the action of the respondents deserves to be set aside. He relies upon the judgment of this Court in ***B.M.Habibullah v. State of Tamil Nadu*** [AIR 1994 Mad 222].

4. In the case of ***B.M.Habibullah*** supra, the learned Single Judge of this Court found that the notice under Section 7 of the Act was issued without specifying the date when the period of one week would commence and that no date was mentioned in the said notice.

5. In the present case, notice under Section 7 specifically prescribes on or before 22.02.2023, the petitioners shall remove the encroachments. The same was issued on 07.02.2023. Notice under Section 6 was issued on 28.02.2023 and thereafter, the action was taken in March 2023.



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6. The Act nowhere contemplates 30 days clear notice as is sought to be contended by learned counsel for the petitioners.

7. Moreover, the petitioners have a remedy available under Section 10 of the Act. It is for the petitioners to avail the said remedy. In case the petitioners avail such remedy, all the contentions are kept open.

8. The writ petition is disposed of. There will be no order as to costs. WMP No.20220 of 2023 filed to permit the petitioners to file a single writ petition is allowed, inasmuch as they have paid separate court-fee. W.M.P.Nos. 20224 and 20225 of 2023 are closed.

(S.V.G., CJ.)

(P.D.A., J.)

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Index : Yes/No
Neutral Citation : Yes/No

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