



WEB COPY



W.P.Nos.22599, 22605, 22608 and 22611 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.08.2023

CORAM :

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

AND

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

W.P.Nos.22599, 22605, 22608 and 22611 of 2023

The Seethakathi Trust,
rep. by its Secretary Khalid A.K.Buhari,
Buhari Towers, Ground Floor
No.4, Moores Road,
Chennai-600 006.
in

.. Petitioner

W.P.No.22599/2023

Rahmathunisa

.. Petitioner in
W.P.No.22605/2023

Mariam Habeeb

.. Petitioner in
W.P.No.22608/2023

Qurrath Jameela

.. Petitioner in
W.P.No.22611/2023

Vs

1.The District Collector,
Chengalpattu District,
Chengalpattu.



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2.The Tahsildar,
Vandalur Taluk,
Chengalpattu District.

3.The Revenue Inspector,
Guduvancherry Firka,
Vandalur Taluk,
Chengalpattu District.

.. Respondents in
all WPs

Prayer: Petitions filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorari calling for the records of the impugned notice dated 30.06.2023 issued to the petitioners by the third respondent under Section 7 of the Tamil Nadu Land Encroachment Act, 1905 (Act III of 1905) and consequential impugned order dated 15.07.2023 passed against the petitioners by the second respondent under Section 6 of the Tamil Nadu Land Encroachment Act, 1905 (Act III of 1905) and quash the same.

For the Petitioners : Mr.S.D.Venkateswaran

For the Respondents : Mr.P.Muthukumar
State Government Pleader
assisted by
Mrs.R.Anitha
Spl. Government Pleader



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COMMON ORDER

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(Order of the court was made by the Hon'ble Chief Justice)

We have heard Mr.S.D.Venkateswaran, learned counsel for the petitioners and Mr.P.Muthukumar, learned State Government Pleader, assisted by Mrs.R.Anitha, learned Special Government Pleader for the respondents.

2. Learned counsel for the petitioners submits that the petitioners were served with the notice under Section 7 of the Tamil Nadu Land Encroachment Act, 1905 (for short, "*the Act of 1905*") on 03.07.2023. The petitioners were given 15 days time to file reply. The petitioners have filed the reply on 17.07.2023. However, on 15.07.2023, an order was passed by the second respondent without waiting for the reply of the petitioners.

3. We have considered the submissions.



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4. It does not appear that the dates as mentioned above are disputed. The very purpose of issuing notice under Section 7 of the Act of 1905 is to elicit reply from the party and, after considering the reply, further order has to be passed. If the authorities are not convinced with the reply, then certainly an order for removal of the encroachment under Section 6 of the Act of 1905 can be passed.

5. In the present case, the petitioners were served with notice under Section 7 of the Act of 1905 on 03.07.2023. Without waiting for 15 days, the authority has passed the order under Section 6 of the Act of 1905 on 15.07.2023. The same is not permissible.

6. In the light of the above, the impugned order passed under Section 6 of the Act of 1905 is quashed and set aside.

7. The reply is already filed by the petitioners. The authorities are now to consider the reply filed by the petitioners and pass orders on merits and in accordance with law, afresh.



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8. With these observations, the writ petitions stand disposed of. There will be no order as to costs. Consequently, W.M.P.Nos.22033, 22040, 22037, 22039 and 22042 of 2023 are closed.

(S.V.G., CJ.)

(P.D.A., J.)

01.08.2023

Index : Yes/No
Neutral Citation : Yes/No
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To:

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Chengalpattu District,
Chengalpattu.
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