



W.P.(MD) No.877 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.01.2023

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

AND

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD)No.877 of 2023

and

W.M.P.(MD)Nos.838 and 839 of 2023

P.Arulmoli

... Petitioner

-Vs-

1.The Revenue Inspector,
Muthanenthal Group,
Manamadurai Taluk,
Sivagangai District.

2.K.Sakthivel

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned eviction notice dated 06.01.2023 on the file of the 1st respondent and

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quash the same as illegal and consequently, forbear the respondents from evicting the petitioner from the petitioner's residential house in S.No.215/1 in Kombukaranenthal, Theethanpettai Village, Sivagangai District without following due process of law.

For Petitioner : Mr.T.Lajapathi Roy
For R1 : Mr.V.Nirmal Kumar,
Government Advocate

ORDER

[Order of the Court was made by D.KRISHNAKUMAR, J.]

Challenging the eviction notice dated 06.01.2023 issued by the 1st respondent, this Writ Petition is filed with a consequential direction to the respondents not to evict the petitioner from his residential house in S.No.215/1 in Kombukaranenthal, Theethanpettai Village, Sivagangai District without following due process of law.

2.Mr.V.Nirmal Kumar, learned Government Advocate takes notice for the 1st respondent. Considering the nature of order proposed to be passed in this Writ Petition, notice to the 2nd respondent is dispensed with.

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3.By consent of both parties, this Writ Petition is taken up for final disposal at the admission stage itself.

4.The learned counsel appearing for the petitioner submitted that the impugned eviction notice issued under Section 7 of the Tamil Nadu Land Encroachment Act (hereinafter referred to as 'the Act'), is not a show cause notice. Therefore, the same is liable to be quashed.

5.The learned Government Advocate appearing for the 1st respondent has made a serious objection that as per the Act, the impugned notice is a show cause, for which, the petitioner has to submit her explanation / objection.

6.A perusal of the impugned eviction notice dated 06.01.2023 shows that the petitioner has to remove the encroachment made in the place in question within a period of seven days. Therefore, we are of the view that the 1st respondent has not issued any show cause notice to the petitioner, enabling her

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to submit her explanation / objection. Therefore, the impugned eviction notice dated 06.01.2023 will be treated as show cause notice, for which, the petitioner is permitted to make her explanation / objection within a period of two weeks from the date of receipt of a copy of this order. On receipt of such explanation / objection, the 1st respondent is directed to consider the same and pass appropriate orders on merits and in accordance with law within a period of four weeks thereafter and if there is any encroachment in the place in question, the same would be removed, after affording sufficient opportunity to all the parties concerned and by following due process of law.

7. With the above direction, this Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

[D.K.K., J.] & [R.V., J.]
12.01.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
MYR

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To

The Revenue Inspector,
Muthanenthal Group,
Manamadurai Taluk, Sivagangai District.



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AND

R.VIJAYAKUMAR, J.

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