



W.P.(MD)No.6404 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

AND

THE HONOURABLE MRS. JUSTICE L.VICTORIA GOWRI

W.P.(MD)No.6404 of 2023

and

W.M.P(MD)No.6059 of 2023

R.Sumathi

: Petitioner

Vs.

1.The District Collector,
Sivagangai District,
Sivagangai.

2.The Tashildar,
Devakottai Taluk,
Sivagangai District.

3.Devakottai Municipality,
through its Commissioner,
Sivagangai District.

4.The Headquarters Deputy Tashildar,
Devakottai Taluk,
Sivagangai District.

: Respondents



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PRAYER: Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned eviction order passed by the 4th respondent dated 06.03.2023 and quash the same and consequently, direct the respondents 1 and 2 to issue patta to the petitioner in continuation of the proceedings of 1st respondent in Na.Ka.No.E4/26180/12 dated 11.10.2012 and proceedings of the 2nd respondent in Na.Ka.A1/4843/2012 dated 22.07.2013 and 3rd respondent in Na.Ka.No.3213/2015/F1 dated 18.03.2015 in respect of house property of the petitioner an extent of about 3.77 cents in Town Survey No.15, Block No.17, Ward-K of Udaiyachi Group Village, Devakottai Town.

For Petitioner : Mr.N.S.Karthikeyan

For Respondents : Mr.S.P.Maharajan
Spl. Govt. Pleader for R1, R2 & R4

Mr.K.R.Bharathikannan for R3

ORDER

(Order of the Court was made by R.SUBRAMANIAN, J)

Mr.S.P.Maharajan, learned Special Government Pleader takes notice for the respondents 1, 2 and 4. Mr.K.R.Bharathikannan, learned Standing Counsel takes notice for the third respondent. By consent, this writ petition is taken up for final disposal at the admission stage itself.



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3.As per the scheme of the said Act, section 7 provides show cause notice to be issued to the alleged encroacher. On receipt of the objection, the authority is required to pass orders under Section 6 of the said Act. Unfortunately, the Zonal Deputy Tahsildhar, who issued the notice under Section 7, had clubbed both the Sections 6 and 7 and passed order of eviction even without issuing prior notice. Hence, the order impugned in this writ petition is liable to be set aside. It is, therefore, set aside.

4.The Writ Petition is allowed. It is open to the authorities to take appropriate proceedings strictly in accordance with the proceedings of the Tamil Nadu Land Encroachment Act. The other contentions of the petitioner are left open. No costs. Consequently, connected miscellaneous petition is closed.

[R.S.M., J.] & [L.V.G., J.]
24.03.2023

NCC : Yes/No
Index : Yes/No
Internet : Yes
skn



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R.SUBRAMANIAN., J

AND

L.VICTORIA GOWRI.,J

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and
W.M.P(MD)No.6059 of 2023**

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