



W.P.(MD)No.8841 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.10.2023

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

W.P.(MD)No.8841 of 2023

and

W.M.P.(MD)No.8064 of 2023

S.B.Bala Ganesan

... Petitioner

Vs.

- 1.The Principal Secretary to Government,
Revenue and Disaster Management Department,
Ezhilagam, Chennai.
- 2.The District Collector,
Virudhunagar District.
- 3.The District Revenue Officer,
Virudhunagar District.
- 4.The Revenue Divisional Officer,
Sathur, Virudhunagar District.
- 5.The Tahsildar,
Vempakottai, Virudhunagar District.
- 6.The President,
Keelanmarainadu Village Panchayat,
Vembakottai Taluk, Virudhunagar District.



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7.S.Saravanan

...Respondents

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PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 5th respondent in Na.Ka.Aa.1/440/2023, dated 06.02.2023 and consequent impugned eviction notice issued by the 6th respondent dated 07.04.2023 and quash the same as illegal and to direct the respondents 2 to 5 to consider the petitioner's objection petition dated 13.02.2023 within the time stipulated by this Court.

For Petitioner : Mr.K.Dinesh

For R1 to R6 : Mr.N.Satheesh Kumar,
Additional Government Pleader

For R7 : Mr.R.Venkatesan

ORDER

(Order of the Court was made by ***S.M.SUBRAMANIAM, J.***)

The order issued under Section 6 of the Tamil Nadu Land Encroachment Act, 1905 (hereinafter referred to as 'the Act') is under challenge in the present Writ proceedings.

2.The petitioner pleads that he has not encroached upon any public property. However, the authorities during inspection found that the petitioner has



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encroached upon the public property and therefore, passed an order under Section 6 of the Act.

3.The learned counsel appearing on behalf of the petitioner mainly contended that no show cause notice under Section 7 of the Act was issued and therefore, the order impugned is infirm and liable to be set aside.

4.The learned Additional Government Pleader appearing on behalf of the respondents 1 to 6 submitted a copy of the records, which would reveal that Section 7 notice was issued vide proceedings dated 29.04.2023, which was served on the writ petitioner on 04.05.2023. However, the impugned order under Section 6 of the Act was issued on 06.02.2023 ie., before issuance of notice under Section 7 of the Act. Thus, the order impugned is infirm and not in consonance with the proceedings to be followed under the provisions of the Act. Accordingly, the impugned order passed by the 5th respondent vide proceedings dated 06.02.2023 is quashed. The notice issued under Section 7 of the Act dated 29.04.2023 is directed to be sustained.



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5.The petitioner had been given ample opportunity to submit objections and if he has not submitted any objections, he is at liberty to submit the same within a period of 10 days from today. On receipt of any such explanation / objection from the writ petitioner, the 5th respondent shall consider the same and thereafter, pass final orders under Section 6 of the Act and proceed with the removal of encroachments if any.

6.With the above observations, this Writ Petition stands allowed. Consequently, connected miscellaneous petition is closed.

(S.M.S., J.) & (V.L.N., J.)

09.10.2023

(½)

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

Yuva

To

1.The Principal Secretary to Government,
Revenue and Disaster Management Department,
Ezhilagam, Chennai.

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2.The District Collector,
Virudhunagar District.

3.The District Revenue Officer,
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4.The Revenue Divisional Officer,
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S.M.SUBRAMANIAM, J.

AND

V.LAKSHMINARAYANAN, J.

Yuva

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