



W.P.(MD) No.10500 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.04.2023

CORAM:

**THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
and
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

**W.P.(MD) No.10500 of 2023
and
W.M.P.(MD) No.9330 of 2023**

Mathiyari

... Petitioner

-VS-

1.The District Collector
Sivagangai District
Sivagangai

2.The Tahsildar
Devakottai Taluk
Sivagangai District

3.Devakottai Municipality
through its Commissioner
Sivagangai District

4.The Headquarters Deputy Tahsildar
Devakottai Taluk
Sivagangai District

... Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorari calling for the records pertaining to the impugned eviction notice passed by the fourth respondent dated 17.04.2023 and quash the same in respect of petitioner's property and extent of about 1.6537.4 sq.mts in Town Survey No.21, Block No.5, Ward-M of Udaiyachi Group Village, Devakottai Town.

For Petitioner : Mr.R.Anandharaj
for Mr.S.Suresh Kumar

For Respondents : Mr.P.T.Thiraviam
Government Advocate

ORDER

[Order of the Court was made by R.SUBRAMANIAN, J.]

Mr.P.T.Thiraviam, learned Government Advocate, takes notice for the respondents.

2. With the consent of both sides, this writ petition is taken up for final hearing at the admission stage itself.



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3. A perusal of the order impugned in this writ petition, which is purportedly issued under Section 7 of the Tamil Nadu Land Encroachment Act, 1905 (for brevity, “the Act”), discloses extraordinary magnanimity of the Zonal Deputy Tahsildar, Devakkottai, to help the petitioner. We are sure that this order has been passed for some illegal consideration. Despite the fact that the Act has been in force for nearly 125 years, even today, the revenue officials have not understood the purport of the Act. This Court has been forced to repeatedly quash such illegal orders passed by such errant revenue officials. We are sure that these orders have not stemmed out of ignorance, but, have stemmed out of corrupt activities. The object behind such attitude is to help the encroachers. Section 7 of the Act requires the Tahsildar / Authorised Officer to give a show cause notice to the alleged encroacher giving him time to submit objections. The authorized officer is required to consider the objections, if any, and pass further orders under Section 6 of the Act. This very simple procedure is not being followed by the concerned authorised officers all over the State. Time and again, orders are passed with a view to help the encroachers. Whenever such illegal orders are passed, this Court necessarily intervenes. Whenever this Court intervenes, they raise hue and cry as if this Court is preventing removal of encroachments.



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4. Hence, this writ petition is allowed. The impugned order dated 17.04.2023, passed by the Zonal Deputy Tahsildar, Devakkottai / fourth respondent is quashed. The Zonal Deputy Tahsildar, Devakkottai, is required to pay a cost of Rs.10,000/- (Rupees ten thousand only) to M.S.Chellamuthu Trust and Research Foundation, Alagarkovil, Madurai, (Account No. 11194450660, IFSC Code-SBIN0001479, State Bank of India, Vinayaganagar Branch, No.8, Dr.Ambedkar Road, Madurai-20), on or before 30.05.2023. No costs. Consequently, connected miscellaneous petition is closed.

5. Post on 05.06.2023 for reporting compliance.

[R.S.M., J.]

[L.V.G., J.]

28.04.2023

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

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