



W.P.(MD) No.13958 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.06.2023

CORAM:

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

**W.P.(MD) No.13958 of 2023
and
W.M.P.(MD) No.11783 of 2023**

S.Sahunthala

... Petitioner

-VS-

1. The Revenue Divisional Officer,
Dindigul Division, Dindigul District.
2. The Thasildar,
Athur Taluk, Dindigul District.
3. The Revenue Inspector,
Chinnalaparri Firka, Chinnalapatti,
Dindigul District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records on the file of 3rd respondent in impugned show cause notice dated 05.05.2023 issued under section



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7 of the Tamil Nadu Land Encroachment Act, 1905, against the petitioner and quash the same as illegal and consequently direct the respondents not to interfere in the peaceful possession and enjoyment of the petitioner in the land in S.No. 387/B1.

For Petitioner : Mr.M.Vivek Bharathi

For Respondents : Mr.V.Nirmal Kumar
Government Advocate

ORDER

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

Mr.V.Nirmal Kumar, learned Government Advocate takes notice for the respondents.

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

3. The petitioner's challenge is to the notice issued under Section 7 of the Tamil Nadu Land Encroachment Act, 1905.



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4. The contention of the learned counsel appearing for the petitioner is that the land belongs to the railways based on certain remarks found in the village 'A' register. The remarks are as follows:-

“ரயில்வே நிலையத்திலிருந்து 0.8 கி.மீ. உட்பட்டது”

5. This does not mean that the land belongs to the railways. It is only an indication that it is within a particular distance from the railway station. Admittedly, the land in question has been classified as “Poramboke”. Therefore, the competence of authority to issue notice under Section 7 of the Act cannot be questioned. It will be open to the petitioner to submit all her objections to the notice to the authority who was issued the notice and the said authority will consider the same before passing order under Section 6 of the Act.

6. The learned counsel appearing for the petitioner states that the petitioner has also applied for patta. It will be open to the third respondent to consider the said application but, that would not be a precondition for eviction.



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7. The writ petition is disposed of with the above directions. No costs. Consequently, the connected miscellaneous petition is closed.

[R.S.M., J.]

[L.V.G., J.]

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NCC : No
Index : No
Internet : Yes
PKN



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