



W.P(MD)No.15925 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.07.2023

CORAM:

**THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN
AND
THE HONOURABLE MR.JUSTICE D.BHARTHA CHAKRAVARTHY**

W.P(MD)No.15925 of 2023

and

W.M.P(MD)No.13338 of 2023

P.Subramanian

... Petitioner

Vs.

1.The District Collector,
Trichy District,
Trichy.

2.The Revenue Inspector,
Kattuputhur Division,
Thottiyam Taluk,
Trichy District.

3.The Tahsildar,
Thottiyam Taluk,
Trichy District.

4.The Inspector of Police,
Thottiyam Police Station,
Thottiyam,
Trichy District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari calling for the records relating to the impugned notice in Na.Ka.No.A2/925/2022 dated 13.06.2023 issued by the third respondent and quash the same.



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For Petitioner
For Respondents

:Mrs.Chamundi Bose
:Mr.M.Lingadurai,
Special Government Pleader

ORDER

(Order of the Court was made by S.VAIDYANATHAN, J.)

The petitioner has come forward with this writ petition challenging the notice issued by the third respondent in Na.Ka.No.A2/925/2022, dated 13.06.2023.

2. Mr.M.Lingadurai, learned Special Government Pleader takes notice for the respondents.

3. When the matter is taken up for hearing today, it is brought to our notice that after issuance of notice under Section 7 of the Tamil Nadu Land Encroachment Act, 1905(in short "the Act"), dated 21.02.2023, final orders have been passed under Section 6 of the Act. The said order has become final. The impugned notice, dated 13.06.2023, has been issued asking the petitioner to vacate the place on the ground that the petitioner is an encroacher and in case the petitioner fails to vacate on his own, steps would be taken to evict the petitioner apart from collecting necessary charges.



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4. The case of the respondents is that since the petitioner has refused to receive the notice, the same has been affixed at the door. Admittedly, the order under Section 6 of the Act has not been challenged by the petitioner. Further, the petitioner has an effective alternative remedy under Section 10 of the Act.

5. A perusal of the impugned order would clearly show that the order affixed at the door has been removed and the same has been filed in the typed set of papers. The petitioner has also produced the order passed under Section 6 of the Act at Page No.24 of the typed set of papers.

6. Since the petitioner has an effective alternative remedy, we are not inclined to grant any relief as sought for by the petitioner. Though it has been stated by the learned counsel for the petitioner that no survey has been conducted, since the petitioner has got an appeal remedy, we permit the petitioner to file an appeal before the appellate authority within a period of fifteen days from the date of receipt of a copy of this order. On such appeal, the appellate authority is empowered to inspect the property and conduct a survey and pass final orders in the appeal after affording opportunity of hearing to the parties concerned. We also make it clear that in case the petitioner fails



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to avail the opportunity of being heard in person, the same can be recorded in the order to be passed in the appeal and final orders may be passed. Such exercise shall be completed within a period of three months from the date of filing of appeal by the petitioner.

With the above direction, this writ petition is disposed of. No Costs. Consequently, connected miscellaneous petition is closed.

[S.V.N.,J.] [D.B.C.,J.]
03.07.2023

Index:Yes/No
NCC:Yes/No

PM

To:

- 1.The District Collector,
Trichy District, Trichy.
- 2.The Revenue Inspector,
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Trichy District.
- 3.The Tahsildar,
Thottiyam Taluk, Trichy District.
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Trichy District.



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S.VAIDYANATHAN, J.

AND

D.BHARATHA CHAKRAVARTHY, J.

PM

ORDER MADE IN

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03.07.2023