



W.P.(MD)No.16685 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.07.2023

CORAM:

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

AND

THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.(MD)No.16685 of 2023

and

W.M.P.(MD)Nos.13942 & 13945 of 2023

Subramani

... Petitioner

Vs.

1.The District Collector,
Sivagangai, Sivagangai District.

2.The Tahsildar,
Taluk Office, Singampunari Taluk,
Sivagangai District.

3.The Block Development Officer (Village Panchayat),
Singampunari, Sivagangai District.

...Respondents

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 notice passed by the 3rd respondent in Na.Ka.B1/1738/2022, dated 19.05.2023 in respect of the petitioner properties old Survey No.226/1 to 226/10, measuring to an extent of 0.02.01 situated at Mallakottai Group, Singampunari Taluk, Sivagangai District and quash the same and consequently, forbearing the



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respondents herein from in any manner not to disturbing the peaceful possession and enjoyment of the above said petitioner land.

For Petitioner : Mr.PR.Boomee Rajan

For Respondents : Mr.D.Sachi Kumar,
Additional Government Pleader

ORDER

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

The notice issued by the 3rd respondent dated 19.05.2023 is under challenge in this Writ Petition and consequential relief is also sought for to forbear the respondents from in any manner not to disturb the peaceful possession and enjoyment of the petitioner in respect of the properties in old Survey Nos.226/1 to 226/10, measuring to an extent of 0.02.01 situated at Mallakottai Group, Singampunari Taluk, Sivagangai District.

2.Mr.D.Sachi Kumar, learned Additional Government Pleader takes notice on behalf of the respondents.

3.By consent of both parties, this Writ Petition is taken up for final disposal at the stage of admission itself.



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4.The impugned order is one issued under Section 6 of the Land Encroachment Act, 1905 (hereinafter referred to as 'the Act') by the 3rd respondent, directing the petitioner to remove the encroachment within a period of one week. Though the impugned order refers to the notice issued by the Tahsildar concerned under Section 7 of the Act, the order does not indicate that the Tahsildar concerned has issued such notice. Further, the 2nd respondent alone is competent to initiate proceedings under the Act. Hence, the impugned order is without jurisdiction and therefore, it is quashed, however, with liberty to the 2nd respondent to pass orders under Section 6 of the Act, after holding enquiry pursuant to a show cause notice under Section 7 of the Act as required in law. Accordingly, this Writ Petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

(S.S.S.R., J.) & (D.B.C., J.)

11.07.2023

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

Yuva



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S.S.SUNDAR, J.

AND

D.BHARATHA CHAKRAVARTHY, J.

Yuva

To

- 1.The District Collector,
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