



W.P.(MD)No.17591 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.07.2023

CORAM:

THE HONOURABLE **MR.JUSTICE S.S.SUNDAR**
and
THE HONOURABLE **MR.JUSTICE D.BHARATHA CHAKRAVARTHY**

W.P(MD)No.17591 of 2023
and
W.M.P(MD)Nos.14682 to 14684 of 2023

Ponnammal

... Petitioner

Vs.

1.The District Collector,
Tirunelveli District,
Tirunelveli.

2.The Thasildhar,
Taluk Office,
Nanguneri Taluk,
Tirunelveli District.

3.The Revenue Inspector,
Ervadi Revenue Firka,
Ervadi, Nanguneri Taluk,
Tirunelveli District.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorari, calling for the records relating to the impugned order of the second respondent dated 21.06.2023 and quash the same.



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For Petitioner :Mr.V.S.Kishok Kumar
For R-1 to R-3 :Mr.M.Lingadurai,
Special Government Pleader

ORDER

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

Heard Mr.V.S.Kishok Kumar, learned counsel for the petitioner and Mr.M.Lingadurai, learned Special Government Pleader for respondents 1 to 3.

2. The petitioner challenges the order passed by the second respondent under Section 6 of the Tamil Nadu Land Encroachment Act, 1905(in short 'the Act').

3. The case of the petitioner is that an extent of 379.75 sq. mts., in Survey No.654/2 at Padalaiyarkulam Village, Nanguneri Taluk, Tirunelveli District, belongs to her and that, the house was constructed during the life time of her father-in-law. On the basis of several mortgages and transactions under registered instruments, the



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petitioner claims ownership over the entire property. However, the third respondent earlier issued a notice under Section 7 of the Act, indicating that an extent of 4.5 cents in Survey No.654/3, which is classified as Sarkaar Poramboke has been encroached by the petitioner. Though the petitioner submitted her objections on the basis of several documents, the second respondent has passed the impugned order under Section 6 of the Act, without considering any of the objections or the documents relied upon by the petitioner.

4. In such circumstances, this Court finds that the impugned order without assigning reason for rejecting the objections of the petitioner is against principles of natural justice. Hence, this Court is inclined to pass the following order.

5. The writ petition is allowed and the impugned order dated 21.06.2023 passed by the second respondent under Section 6 of the Act is quashed. The second respondent is directed to conduct a survey, after issuing notice to the petitioner and in her presence, in Survey No.654/3 with reference to the revenue documents and the documents relied upon



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by the petitioner. Thereafter, a report of such survey shall be drawn by the second respondent. After issuing a copy of the report to the petitioner, it is open to the second respondent to initiate action in accordance with law in case the petitioner is found to be in encroachment of any portion of Government property. No Costs. Consequently, connected miscellaneous petitions are closed.

[S.S.S.R., J.] [D.B.C., J.]
20.07.2023

Index : Yes / No

NCC : Yes/No

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To:

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Tirunelveli.
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Tirunelveli District.
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