



W.P.(MD).No.16825 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 04.10.2023

CORAM

**THE HON'BLE MR JUSTICE S.M.SUBRAMANIAM
AND
THE HON'BLE MR JUSTICE V.LAKSHMINARAYANAN**

W.P.(MD).No.16825 of 2023
and
W.M.P.(MD).No.14047 of 2023

V.Selvaraj

.. Petitioner

Vs.

The Tahsildar,
Manapparai Taluk,
Tiruchirappalli District.

.. Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of Certiorari, calling for the records of the respondent in impugned notice in Reference No.Nil dated 03.07.2023 issued under Section 6 of Tamil Nadu Land Encroachment Act, 1905 and quash the same as arbitrary, illegal and contrary to the provisions of the Tamil Nadu Land Encroachment Act, 1905.

For Petitioner : Mr.K.Prabhakar

For Respondent : Mr.S.Shanmugavel
Additional Government Pleader



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ORDER

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

The proceedings issued under Section 6 of the Tamil Nadu Land Encroachment Act, 1905 is sought to be quashed in the present Writ Petition.

2. The main ground raised by the petitioner is that the authorities have not issued any show cause notice as contemplated under Section 7 of the Tamil Nadu Land Encroachment Act. Thus, the impugned proceedings directly issued under Section 6 of the Act is not sustainable.

3. A perusal of the order impugned reveals that the Tahsildar, Manapparai Taluk/respondent herein has granted 15 days' time to the writ petitioner to vacate from the subject land, failing which, further action will be initiated to evict the petitioner from the public property. Though the learned counsel for the petitioner states that no show cause notice under Section 7 of the Act was issued, the order explicitly provides an opportunity



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to the writ petitioner to vacate the Government property by demolishing the constructions and other things kept in the public property.

4. The learned counsel for the petitioner and the learned Additional Government Pleader appearing for the respondent has no objection to treat the impugned proceedings issued under Section 6 of the Act as a show cause notice as required under Section 7 of the Act. Accordingly, the petitioner may be permitted to submit his objections/defence statement, if any, within a period of fifteen (15) days.

5. The order impugned reveals that the provision of the Act has been misquoted. Misquoting of provision will not vitiate the entire proceedings. The order impugned is intended to give an opportunity to the petitioner to vacate himself from the public property. That being the factum, the petitioner is at liberty to submit his defence statements/objections, if any, within a period of fifteen (15) days from the date of receipt of a copy of this order and thereafter, the authorities/respondent are at liberty to pass final orders under Section 6 of the Tamil Nadu Land Encroachment Act in the manner contemplated under law.



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6. With the above direction, the Writ Petition stands disposed of.

There shall be no order as to costs. Consequently, connected miscellaneous petition stands closed.

(S.M.S.,J.) (V.L.N.,J.)
04.10.2023

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

To
The Tahsildar,
Manapparai Taluk,
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and
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