



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **27.07.2023**

CORAM:

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

**W.P(MD)NO.18154 OF 2023
and
W.M.P(MD)Nos.15134 and 15135 of 2023**

Paulendran

:Petitioner/Petitioner

.VS.

1.The District Collector,
Tirunelveli District,
Tirunelveli.

2.The Tahsildar,
Nanguneri Taluk,
Tirunelveli District.

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

: Respondents/Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned show cause notice issued by the third respondent, dated 2.6.2023 and consequential eviction notice issued by the second respondent, dated 21.6.2023 under Section 6 and 7 of the Act III of Madras, 1905 in the name of one Muthuraj and Karpagaraja respectively and to quash the same as illegal and consequently forbearing the respondents or its men



or agents from evicting the Petitioner from lawful possession of the property comprised in S.No.654/3 situated in Padalaiyarkulam Village, Nanguneri Taluk, Tirunelveli District with respect to an extent of 6.13 cents concerned, without holding an enquiry on the explanation submitted by the Petitioner, dated 16.6.2023.

For Petitioner :Mr.A.Mohan

For Respondents :Mr.M.Lingadurai
1 to 3 Special Govt.Pleader

ORDER

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

This Writ Petition is filed seeking issuance of a Writ of Certiorarified Mandamus calling for the records relating to the impugned show cause notice issued by the third respondent, dated 2.6.2023 and consequential eviction notice issued by the second respondent, dated 21.6.2023 under Section 6 and 7 of the Act III of Madras, 1905 in the name of one Muthuraj and Karpagaraja respectively and to quash the same as illegal and consequently forbearing the respondents or its men or agents from evicting the Petitioner from lawful possession of the property comprised in S.No. 654/3 situated in Padalaiyarkulam Village, Nanguneri Taluk, Tirunelveli District with respect to an extent of 6.13 cents concerned, without holding an enquiry on the explanation



submitted by the Petitioner, dated 16.6.2023.

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2.Mr.M.Lingadurai, learned Special Government Pleader takes notice for the respondents 1 to 3. By consent of both parties, the Writ Petition is taken up for final disposal at the admission stage itself.

3.The Petitioner has come forward with a case that none of the notice is served on him, who is the owner and who has put up construction in the property in question, in respect of which, proceedings were initiated under the Tamil Nadu Land Encroachment Act,1905.

4.The learned Special Government Pleader appearing for the respondents 1 to 3 would admit that no notice was served on the Petitioner.

5.This Court finds that the Petitioner, who has put up construction and claiming ownership over the property, which is classified as 'natham', is entitled to be heard before proceeding further.



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6. Therefore, the impugned eviction notice, dated 2.6.2023 and 21.6.2023, which are under challenge before this Court, are set aside. However, liberty is given to the second respondent to proceed with the matter further, in accordance with law. Before initiating proceedings under the Tamil Nadu Land Encroachment Act, 1905, the second respondent has to conduct a survey on the basis of revenue records and in the presence of the Petitioner and occupiers. After survey, in case, the second respondent has reasons to believe that the property in question is a Government Poramboke land and the Petitioner is in encroachment of the same, survey report shall be served on the Petitioner as well as to the occupiers and then, it is open to the second respondent to issue notice under Section 7 of the Tamil Nadu Land Encroachment Act, 1905 and proceed with the matter in accordance with law. If the encroachment is unobjectionable, the Petitioner's request for patta can also be considered.

7. With the above directions, the Writ Petition stands disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

[S.S.S.R.,J.] [D.B.C,J.]
27.07.2023



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

To

- 1.The District Collector,
Tirunelveli District,
Tirunelveli.
- 2.The Tahsildar,
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S.S.SUNDAR, J.

AND

D.BHARATHA CHAKRAVARTHY, J.

vsn

ORDER MADE IN

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