



W.P.(MD) No.20520 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.01.2023

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

AND

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD)No.20520 of 2022

and

W.M.P.(MD)Nos.14862 & 17467 of 2022

1.Annamalai

2.Tirupati

3.Ramraj

4.Senthil

... Petitioners

-Vs-

1.The District Collector,

Tuticorin District, Tuticorin.

2.The Tahsildar,

Srivaikontam Taluk,

Tuticorin District.

... Respondents

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PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records relating to the impugned order made by the 1st respondent in his proceedings in Na.Ka.A5/2432-2020, dated 29.04.2022 and quash the same as illegal.

For Petitioners : Mr.M.Mahaboob Athiff

For Respondents : Mr.P.T.Thiraviyam,
Government Advocate

ORDER

[Order of the Court was made by D.KRISHNAKUMAR, J.]

The eviction notice dated 29.04.2022 issued by the 1st respondent, is under challenge in this Writ Petition.

2.The case of the petitioners is that since the lands in question are classified as Grama Natham, it does not belong to the State. Therefore, the impugned eviction notice is passed without jurisdiction. Further, no prior notice is served to the petitioners, before issuing the impugned eviction notice. Therefore, the same is liable to be set aside on the ground of violation of principles of natural justice.

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3.The learned Government Advocate appearing for the respondents submitted that no person can encroach the land classified as Grama Natham other than for residential purpose and the petitioners are doing Brick Chambers in the land in question. Further, a notice under Section 7 of the Tamil Nadu Land Encroachment Act, 1905 (hereinafter referred to as 'the Act') was issued on 03.06.2021 and one David, who is the Accountant of the Brick Chamber has received the said notice.

4.Heard the learned counsel for the petitioner and the learned Government Advocate for the respondents and perused the materials available on record carefully.

5.The point for consideration is whether a notice under Section 7 of the Act has been issued to the petitioners.

6.From the submission made by the learned Government Advocate, it is seen that Section 7 notice has been served to the petitioners and the petitioners

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1 and 4 also submitted their reply dated 17.06.2021 to the respondents. The same was also considered and rejected by the 2nd respondent vide proceedings dated 17.02.2022, after following the procedures as contemplated under the rules and the same was not disclosed by the petitioners before this Court. Non-disclosure of the fact is also a ground for rejection of the claim of the petitioners. Further, the petitioners have not furnished any materials that they are in possession of the land in question for several decades. In view of the above, the contention of the petitioners that no notice was served to them, is totally baseless.

7. With the above observation, this Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

[D.K.K., J.] & [R.V., J.]
19.01.2023

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

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