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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:**11.08.2023**

CORAM:

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

**W.P(MD)NO.19613 OF 2023
and
W.M.P(MD)No.16195 of 2023**

S.Subburaj

:Petitioner

.VS.

1.The District Collector,
Thoothukudi District,
Thoothukudi.

2.The Tahsildar,
Ottapidaram Taluk,
Thoothukudi District.

: 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 notice in Na.Ka.A3/4037/2022, dated 1.8.2023, on the file of the second respondent and to quash the same as illegl and consequently to direct the second respondent not to interfere with the Petitioner's peaceful possession of the Village Natham vacant land in S.NO. 247/1, situated at K.Shanmugapuram Village, Ottapidaram Taluk, Thoothukudi District.



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For Petitioner :Mr.M.Prabu

For Respondents :Mr.J.K.Jeyaseelan
Govt.Advocate

O R D E R

(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 notice in Na.Ka.A3/4037/2022, dated 1.8.2023, on the file of the second respondent and to quash the same as illegal and consequently to direct the second respondent not to interfere with the Petitioner's peaceful possession of the Village Natham vacant land in S.NO.247/1, situated at K.Shanmugapuram Village, Ottapidaram Taluk, Thoothukudi District.

2.Mr.J.K.Jeyaseelan, learned Government Advocate takes notice for the respondents. By consent of both parties, the Writ Petition is taken up for final disposal at the admission stage itself.

3.The land which is now encircled by the Petitioner is classified as "Natham" and he has approached this Court by way of the present Writ Petition challenging the notice issue under Section



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6 of the Tamil Nadu Land Encroachment Act. The Petitioner has not produced any single paper or relevant document to show that he was in enjoyment of the property in question or on the basis of his title to the property for a long time. Though the property classified as "Natham", it is seen that it is a vacant land. Even assuming that the land is classified as "Natham" if any land within Natham is enjoyed in common for common/communal purpose, the Petitioner cannot suddenly put up a fence and claim that he is the owner of the property. Therefore, this Court is unable to find any irregularity in the second respondent issuing notice under Section 6 of the Tamil Nadu Land Encroachment Act, 1905. However, the Petitioner instead of filing his objections on the basis of any materials to sustain his claim of title or enjoyment, has now come before this Court saying that the respondent has no jurisdiction to initiate action for removal of the encroachment.

4. This Court is unable to find any merit in the Writ Petition. However, it is open to the Petitioner to raise all his objections to the impugned notice within a period of two weeks from the date of receipt of a copy of this order. In case, any objection is raised by the Petitioner, the second respondent shall consider the same and



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pass orders on merits and in accordance with law. Even if any order is passed adverse to the Petitioner under Section 6 of the Tamil Nadu Land Encroachment Act, 1905, it will be open for the Petitioner to file an appeal under Section 10 of the Tamil Nadu Land Encroachment Act, 1905, if so advised.

5. With the above observations, the Writ Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

[S.S.S.R.,J.] [D.B.C,J.]
11.08.2023

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

vsn

To

1. The District Collector,
Thoothukudi District,
Thoothukudi.

2. The Tahsildar,
Ottapidaram Taluk,
Thoothukudi District.



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S.S.SUNDAR, J.

AND

D.BHARATHA CHAKRAVARTHY,J.

vsn

ORDER MADE IN

W.P(MD)NO.19613 OF 2023

and

W.M.P(MD)No.16195 of 2023



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