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W.P.(MD)NO.24671 OF 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.10.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

AND

THE HON'BLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.24671 of 2023 AND
W.M.P.(MD)No.20854 & 20857 of 2023

Kalidoss

... Petitioner

Vs.

1. The District Collector,
Karur District.
2. Kadavur Panchayat Union,
Rep. by its Block Development Officer,
(Village Panchayat),
Kadavur at Tharagampatty,
Kadavur Taluk, Karur District.
3. Tharagampatty Panchayat,
Rep. by its President,
Tharagampatty,
Kadavur Taluk, Karur District.
4. The Tahsildar,
Kadavur Taluk,
Kadavur, Karur District.
5. The Revenue Inspector,
Mylampatti Firka,
Kadavur Taluk, Karur District.

... Respondents



Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records pertaining to the impugned order passed by the fifth respondent in AthiMu.323/2023 dated 03.10.2023 and quash the same.

For Petitioner : Mr.M.Saravanan

For Respondents : Mr.K.Balasubramani,
Special Government Pleader.

* * *

ORDER

Heard both sides.

2. The learned counsel appearing for the petitioner assails the order passed under Section 6 of the Tamil Nadu Land Encroachment Act 1905. He raised two grounds: a) The impugned order has been passed by an authority who does not have the jurisdiction b) The principles of natural justice have not been complied with, since notice under Section 7 of the Act has not been issued.

3. We are satisfied that the first ground has no merit. The learned Special Government Pleader pointed out that the



petition-mentioned tank belongs to the revenue department. If that be so, the provisions of the Tamil Nadu Land Encroachment Act will have to be invoked. Tamil Nadu Act 8 of 2007 can be invoked only in respect of those tanks which are under the control and management of Public Works Department. Under the Tamil Nadu Land Encroachment Act, the Revenue Inspector is also one of the officers who is competent to take action. Therefore, the first ground is rejected.

4. As regards the second ground, the learned Special Government Pleader asserts that notice under Section 7 of the Act was issued. But there is no proof for having served the same. It is well settled that only after conducting proper enquiry, final order has to be passed under Section 6 of the Act. Since the petitioner states that he was not issued with notice under Section 7 of the Act and no enquiry has been held, the impugned order is set aside. In our presence, a copy of the notice under Section 7 of the Act has been served on the learned counsel appearing for the petitioner. Enquiry will be held on 30.10.2023 at 3.00 pm. in the office of the fifth



respondent. The petitioner will not receive any further notice hereafter. Final order will be passed on merits and in accordance with law thereafter. This writ petition stands allowed on these terms. No costs. Consequently, connected miscellaneous petitions are closed.

(G.R.SWAMINATHAN, J.) & (B.PUGALENDHI, J.)

12th October 2023

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

PMU

Note : Issue order copy on 16.10.2023.

To:

1. The District Collector,
Karur District.
2. The Block Development Officer,
Kadavur Panchayat Union, (Village Panchayat),
Kadavur at Tharagampatty,
Kadavur Taluk, Karur District.
3. The President,
Tharagampatty Panchayat,
Tharagampatty,
Kadavur Taluk, Karur District.
4. The Tahsildar,
Kadavur Taluk, Kadavur, Karur District.
5. The Revenue Inspector,
Mylampatti Firka,
Kadavur Taluk, Karur District.



WEB COPY



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B.PUGALENDHI, J.

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