



W.P.No.26049 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.09.2024

CORAM :

THE HON'BLE MR.D.KRISHNAKUMAR, ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE P.B.BALAJI

W.P.No.26049 of 2024

P.SAMINATHAN

.. Petitioner

Vs

1.THE DISTRICT COLLECTOR
TIRUPPUR DISTRICT,
TIRUPPUR

2.THE TAHSILDAR
UTHUKULLI TALUK, TIRUPPUR

3.THE REVENUE OFFICER
KUNNATHUR SUB TALUK,
UTHUKULLI TALUK, TIRUPPUR.

.. Respondents

Prayer : Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorari to call for the entire records of the third respondent which culminated in the Notice dated 23.08.2024 in Form -7 under Sec. 7 of the Tamil Nadu Encroachments Act, 1905 (Act 3 of 2005) with respect to the alleged encroachment of 63 Sq. mts. in S. No 94/2 of Virumandampalayam Village.



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For the Petitioner : Mr.V.P.Sengottuvel
Senior Counsel
for Mr.K.R.Nishanth

For Respondents : Mr.M.Habeeb Rahman
Government Advocate

ORDER

(Order of the Court was made
by the Hon'ble Acting Chief Justice)

Calling in question the notice dated 23.8.2024 issued under Section 7 of the Tamil Nadu Land Encroachment Act, 1905, the petitioner has filed the present writ petition.

2. Learned Senior Counsel appearing on behalf petitioner submits that the petitioner is the owner of the writ subject land and is in peaceful possession and enjoyment of the same for over 50 years, however, all of the sudden, the impugned notice has been issued alleging that the petitioner has encroached 63 sq.mtrs of land in Survey No.94/2. Learned Senior Counsel further submits that without conducting any survey of the lands and fixing the boundary lines, the respondents have issued the impugned notice and, therefore, the same is liable to be set aside.



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3. Learned Government Advocate appearing on behalf of the respondents submits that a survey of land in question shall be conducted by the second respondent, with the assistance of a Surveyor, based on the revenue records and, if any encroachment is found, then action in accordance with law would be undertaken, after affording opportunity to the petitioner.

4. In view of the submissions made, we dispose of the writ petition with a direction to the second respondent to conduct a survey of the writ subject land with the assistance of the Surveyor, based on the revenue records, with prior notice to the writ petitioner. If upon survey any encroachment is found, then the respondents shall follow the procedure contemplated under the Act of 1905 and evict the petitioner. However, if no encroachment is found, the proceedings initiated under Section 7 of the Act of 1905 shall be dropped. The entire exercise shall be concluded within a period of four weeks from the date of receipt of a copy of this order. There shall be no order as to costs. Consequently, W.M.P.No.28460



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of 2024 is closed.
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(D.K.K., ACJ.) (P.B.B, J.)
04.09.2024

Index : Yes/No
NC : Yes/No
sasi

To:

- 1.THE DISTRICT COLLECTOR
TIRUPPUR DISTRICT,
TIRUPPUR
- 2.THE TAHSILDAR
UTHUKULLI TALUK, TIRUPPUR
- 3.THE REVENUE OFFICER
KUNNATHUR SUB TALUK,
UTHUKULLI TALUK, TIRUPPUR.



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THE HON'BLE ACTING CHIEF JUSTICE
AND
P.B.BALAJI, J.

(sasi)

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