



WP(MD). No.5954 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

Dated : 11/12/2024

CORAM

**THE HONOURABLE MR. JUSTICE M.S.RAMESH
AND
THE HONOURABLE DR. JUSTICE A.D. MARIA CLETE**

**WP(MD). No.5954 of 2020
and WMP(MD) No.5148 & 5149 of 2020**

Pon Retna Bai,

... Petitioner

Vs

1. The District Collector,
Kanyakumari District , Nagercoil.

2. The District Revenue Officer,
Kanyakumari District , Nagercoil.

3. The Tahsildar,
Agastheeswaram Taluk, Kanyakumari District.

4. The Revenue Inspector,
Suchindram, Agastheeswaram Taluk,
Kanyakumari District.

... Respondents

PRAYER :-Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order No.Nil dated 04.03.2020, passed by the 3rd respondent herein, and quash the same as illegal and consequently forbearing the respondents 2 to 4 from taking possession of



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land from the petitioner in survey No. 636/3, situated at Nallur Village, Agasteeswaram Taluk, kanyakumari District.

For Petitioner : M/s. L. George Paul Anto,
For Respondent : M/s.S.R.A.Ramachandran,
Additional Government Pleader

ORDER

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

This writ petition has been filed for a Certiorari, seeking to quash the impugned order of the third respondent dated 04.03.2020.

2. The main ground on which the order made under Section 6 of “the Tamil Nadu Land Encroachments Act, 1905” [hereinafter referred to as “the Act” for convenience] is challenged is that prior to issuance of the eviction order under Section 6, notice under Section 7 was not issued.

3.The learned Additional Government Pleader fairly admitted that no notice under Section 7 was issued.

4. Section 6 of the Act mandates for issuance of a prior show cause notice under Section 7 before any order of eviction is passed and the



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authorities have to follow the due process of law. Hence, it goes without saying that the show cause notice under Section 7 should have been issued before Section 6 notice. Therefore, the present impugned order cannot be legally sustained.

5. Accordingly, the writ petition is allowed and the impugned order dated 04.03.2020 on the file of the third respondent is set aside. However, liberty is granted to the respondents herein to initiate eviction proceedings by following the due procedure contemplated under the Act and take further course of action by extending due opportunity to all the persons, who may be interested in the subject matter. There shall be no order as to costs. Consequently, the connected miscellaneous petitions are closed.

[M.S.R.,J] [A.D.M.C.,J]
11.12.2024

NCC : Yes/No
Index : Yes/No

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