



W.P(MD)No.6060 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.03.2024

CORAM:

**THE HONOURABLE MR.JUSTICE D. KRISHNAKUMAR
and
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

**W.P(MD)No.6060 of 2023
and
W.M.P(MD)Nos.5717 & 5718 of 2023**

Karuppaiah

... Petitioner

VS.

- 1.The District Collector,
Office of the District Collector,
Virudhunagar District.
- 2.The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Sathoor, Virudhunagar District.
- 3.The Tahsildar,
Rajapalayam Taluk,
Virudhunagar District.
- 4.The Block Development Officer,
Rajapalayam Taluk,
Virudhunagar District.
- 5.The Village Administrative Officer,
Sundarajapuram Village Panchayat,
Rajapalayam Taluk,
Virudhunagar District.



W.P(MD)No.6060 of 2023

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6.The President,
Sundarajapuram Village Panchayat,
Rajapalayam Taluk,
Virudhunagar District.

7.Gunasekaran

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the records connected with the impugned notice issued by the third respondent dated 02.03.2023 in Na.Ka.No.A6/8477/2022 and quash the same as illegal consequently direct the respondent Nos.1 to 6 for not to evict or demolish the building situated at Natham Survey No.429/38, Sundararajapuram Village, Rajapalayam Taluk, Virudhunagar District till the disposal of Original Suit in O.S.No.105 of 2022 pending before the Principal Sub Court Srivilliputhur and appeal filed under Section 10 of The Tamil Nadu Land Encroachment Act, 1905 in A5/2140/2023 pending before the respondent No.2 in accordance with law within the time stipulated by this Court.

For Petitioner

: Mr.R.Alagumani

For Respondent Nos.1 to 5

: Mr.Veera Kathiravan
Additional Advocate General
Assisted by
Mr.P.Thilak Kumar
Government Pleader



W.P(MD)No.6060 of 2023

WEB COPY

ORDER

(Order of the Court was made by D. KRISHNAKUMAR, J.)

The notice dated 02.03.2023 issued by the third respondent under Section 7 of the Tamil Nadu Land Encroachment Act, 1905, directing the petitioner to remove the encroachment made by him in the property comprised in Survey No.429/38, Sundarajapuram Village, Rajapalayam Taluk, Virudhunagar District is under challenge in this Writ Petition.

2.Heard the learned counsel appearing on either side and perused the materials available on record.

3.According to the petitioner, he filed a suit in O.S.No.105 of 2022 on the file of the Principal Sub Court, Srivilliputhur, as against the seventh respondent seeking for permanent injunction in respect of the very same subject property and the said suit is still pending. While so, the seventh respondent herein filed a Writ Petition in W.P(MD)No.1989 of 2022, seeking to remove the encroachments made by the petitioner herein in Survey No.429/38, Sundararajapuram Village, Rajapalayam Taluk, Virudhunagar District and the Division Bench of this Court, by order dated



W.P(MD)No.6060 of 2023

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17.11.2022, disposed of the Writ Petition directing the authorities concerned to consider and dispose of the representation of the petitioner, dated 20.12.2021, on merits and in accordance with law and further directed that if there is any encroachment, the authorities concerned shall remove the same, after affording sufficient opportunity to all the parties concerned by following due process of law. However, the third respondent has passed the impugned order, dated 02.03.2023. Challenging the said impugned order passed by the third respondent, dated 02.03.2023, the petitioner has filed the present Writ Petition.

4.The learned Additional Advocate General appearing for the respondents 1 to 5 submitted that as per the revenue records, the subject land is classified as Government Poramboke land. Hence, the third respondent has issued the impugned notice under Section 7 of the Tamil Nadu Land Encroachment Act, 1905, dated 02.03.2023 and the third respondent is yet to issue notice under Section 6 of the Tamil Nadu Land Encroachment Act.

5.From the materials available on record, it is seen that earlier,



W.P(MD)No.6060 of 2023

WEB COPY

for the similar relief, the petitioner filed a Writ Petition in W.P(MD)No.29275 of 2022, seeking to direct the respondents 1 to 6 therein not to evict or demolish the building situated at Survey No.429/38, Sundararajapuram Village, Rajapalayam Taluk, Virudhunagar District till the disposal of Original Suit in O.S.No.105 of 2022 pending on the file of the Principal Sub Court, Srivilliputhur, in accordance with law and this Court, by order dated 02.01.2023, directed the third respondent therein to complete the proceedings within the stipulated time as directed by this Court in W.P(MD)No.1989 of 2022, dated 17.11.2022, after affording sufficient opportunity of personal hearing to the petitioner and other parties concerned and by following due process of law. Based on the abovesaid order, the third respondent has issued the impugned notice under Section 7 of the Tamil Nadu Land Encroachment Act, dated 02.03.2023, which is under challenge in this Writ Petition with a consequential direction to the respondents 1 to 6 not to evict or demolish the building in question till the disposal of Original Suit in O.S.No.105 of 2022 pending on the file of the Principal Sub Court, Srivilliputhur.

6.In view of the above, we are of the view that admittedly the



W.P(MD)No.6060 of 2023

property in question is classified as Government Poramboke land. Hence, we are not inclined to interfere with the impugned proceedings issued by the third respondent, dated 02.03.2023 and the third respondent has to comply with the procedures as contemplated under the Tamil Nadu Land Encroachment Act for taking further course of action.

7. Accordingly, we are not inclined to entertain the Writ Petition and the same is dismissed. No costs. Consequently connected Miscellaneous Petitions are closed.

[D.K.K.,J.] [R.V.,J.]
25.03.2024
(2/2)

NCC : Yes / No
Index : Yes / No
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W.P(MD)No.6060 of 2023

WEB COPY

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WEB COPY



W.P(MD)No.6060 of 2023

D. KRISHNAKUMAR,J.
and
R.VIJAYAKUMAR,J.

ps

ORDER MADE IN
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DATED : 25.03.2024
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