



WP(MD). No.12153 of 2021

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.12153 of 2021
and WMP(MD) Nos.9572 and 9573 of 2021**

A.Samson

... Petitioner

Vs

1. The District Collector,
Tiruchirappalli District,
District Collector Office,
Tiruchirappalli - 620001.

2. The Revenue Divisional Office,
Lalgudi Division, Lalgudi, Tiruchirappalli.

3. The Thasildar,
Mannachanallur Taluk,
Tiruchirappalli District..

4. The Block Development Officer,
BDO Office, Mannachanallur Panchayat
Union, Mannachanallur Taluk,
Tiruchirappalli District..

5. The Panchayat President,
Konalai Panchayat, Mannachanallur Taluk,
Tiruchirappalli District.

... Respondents



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PRAYER :- Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records relating to the impugned notice on the file of 5th respondent dated 05.07.2021 for quashing the same and to direct the respondents to consider the petitioner's representation dated 8.07.2021.

For Petitioner : M/s.Irudayasamy.G

For Respondent : M/s. S.R.A.Ramachandran,
Additional Government Pleader
for R1 to R4

ORDER

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

Challenging the impugned order of the fifth respondent dated 08.07.2021, the petitioner is before this Court.

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. The second ground that has been raised is that without any jurisdiction, the 5th respondent has issued the said notice.



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

4. Accordingly, the writ petition is allowed and the impugned order dated 08.07.2021 on the file of the 5th 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
RR

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M.S. RAMESH, J.
AND
A.D.MARIA CLETE, J.

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