



W.P(MD)No.11486 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.06.2024

CORAM:

**THE HONOURABLE MR.JUSTICE R.SURESH KUMAR
and
THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN**

**W.P(MD)No.11486 of 2024
and
W.M.P(MD)No.10236 of 2024**

Raju

... Petitioner

VS.

1.The Tahsildar,
Marungapuri Taluk,
M.Kallupatti,
Trichy District.

2.The Revenue Inspector,
Valanadu Circle,
Marungapuri Taluk,
M.Kallupatti,
Trichy District.

... 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 pertaining to the impugned order of the first respondent vide his proceedings No. Nil dated 21.05.2024 and quash the same as illegal, consequently forbearing the respondents from evicting the petitioner from his peaceful possession and enjoyment of the property in S.F.No.449/1, 3B, 6, 7, 9, 15, 17, 18 for a total extent of 0.72.50 Hectares comprised in Patta

1/7



W.P(MD)No.11486 of 2024

WEB C No.688 situated at Paluvanchi East Village, Marungapuri Taluk, Trichy District without following any due process of law.

For Petitioner : Mr.T.Vadivelan

For Respondents : Mr.N.Satheesh Kumar
Additional Government Pleader

ORDER

(Order of the Court was made by R.SURESH KUMAR, J.)

The prayer sought for in this Writ Petition is for a Writ of Certiorarified Mandamus, to quash the impugned order of the first respondent vide proceedings No.Nil dated 21.05.2024 and consequently forbearing the respondents from evicting the petitioner from his peaceful possession and enjoyment of the property in S.F.No.449/1, 3B, 6, 7, 9, 15, 17, 18 for a total extent of 0.72.50 Hectares comprised in Patta No.688 situated at Paluvanchi East Village, Marungapuri Taluk, Trichy District without following any due process of law.

2.With regard to Survey No.465/1 at Paluvanchi East Village, Marungapuri Taluk, Trichy District, there has been a Section 7 notice under Act 3 of 1905, which was replied by the petitioner by his reply dated

2/7



W.P(MD)No.11486 of 2024

WEB COPY

27.03.2024, where he has given in detail as to how 10 number of coconut trees planted by him falls in the border of Survey Nos.465/1 and 465/6, whereas Survey No.465/6 is a patta land belongs to the petitioner and also he has stated in the said reply that if at all 10 coconut trees grown up with 15 years old and yielding, ought to be taken as an encroachment in Survey No.465/1 even that land belongs to the Village Panchayat as it has been marked as a cart track, where necessary tax can be collected from him and accordingly he can be permitted to take the usufruct. These are all the replies that have been given by the petitioner, dated 27.03.2024 which has been sent through registered post with acknowledgement due.

3.However, having receipt of the same, the first respondent/the Tahsildar has not considered the said reply and mechanically in the format Section 6 order of the said Act since has been issued which is impugned in this Writ Petition.

4.Heard Mr.T.Vadivelan, learned counsel appearing for the petitioner and Mr.N.Satheesh Kumar, learned Additional Government Pleader appearing for the respondents.



W.P(MD)No.11486 of 2024

WEB COPY

5.The learned Additional Government Pleader appearing for the respondents, however, vehemently opposed that as against the order impugned, only appeal under Section 10 of the said Act has to be made before the District Collector. Instead of making the said appeal by way of alternative remedy, he ought not to have approached this Court by filing this Writ Petition under Article 226 of the Constitution.

6.We have considered the said submissions made by the learned Additional Government Pleader appearing for the respondents and the said submission is liable to be rejected for the simple reason that the reply that has been given by the petitioner pursuant to Section 7 notice since has not been considered, it is a clear case of violation of principles of natural justice, therefore, in that case, the Writ Petition can very well be entertained by this Court.

7.In view of the aforestated, we are inclined to dispose of this Writ Petition with the following order:



W.P(MD)No.11486 of 2024

WEB COPY

That the impugned order, dated 21.05.2024 passed by the first respondent is set aside and the matter is remitted back to the respondent, especially, the first respondent/the Tahsildar, who shall consider the said reply given by the petitioner, dated 27.03.2024 and pass orders thereon on merits and in accordance with law thereafter, within a period of four weeks from the date of receipt of a copy of this order.

8. With this direction, this Writ Petition is disposed of. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

[R.S.K.,J.] [G.A.M.,J.]
04.06.2024

NCC : Yes / No
Index : Yes / No
ps



WEB COPY



W.P(MD)No.11486 of 2024

To

- 1.The Tahsildar,
Marungapuri Taluk,
M.Kallupatti,
Trichy District.
- 2.The Revenue Inspector,
Valanadu Circle,
Marungapuri Taluk,
M.Kallupatti,
Trichy District.



WEB COPY



W.P(MD)No.11486 of 2024

R.SURESH KUMAR,J.
and
G.ARUL MURUGAN,J.

ps

ORDER MADE IN
W.P(MD)No.11486 of 2024

DATED : 04.06.2024