



W.P.(MD) No.13442 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.06.2024

CORAM:

THE HONOURABLE **MR.JUSTICE R.SURESH KUMAR**

AND

THE HONOURABLE **MR.JUSTICE G.ARUL MURUGAN**

W.P.(MD)No.13442 of 2024

and

W.M.P.(MD)Nos.11856, 11857 & 11859 of 2024

A.John Brito

... Petitioner

-Vs-

- 1.The District Collector,
District Collectorate Complex,
Dindigul District.
- 2.The Revenue Divisional Officer,
Dindigul Division, Dindigul District.
- 3.The Tahsildar,
Athoor Taluk, Dindigul District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records relating to the impugned eviction notice dated 23.05.2024 made by the 3rd respondent under Section 6 of the Tamil Nadu Land Encroachment Act, 1905 (Act III / 1905) and quash the same as illegal and arbitrary.



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For Petitioner : Mr.M.Rajarajan
For Respondents : Mr.S.Shaji Bino,
Special Government Pleader

ORDER

[Order of the Court was made by *R.SURESH KUMAR, J.*]

The natham land in S.No.171/26 at Vakkampatty Village to the extent of 0.04.64 hectares, has been in possession and enjoyment of the petitioner, where he has planted some trees and tinted sheet and construction have been made, including the compound wall. This was considered as an encroachment. Therefore, the Tahsildar issued notice under Section 7 of the Act III of 1905 (hereinafter referred to as 'the Act') on 21.02.2024. In response to the same, the petitioner has given a detailed explanation or reply on 29.02.2024. However, now, the Tahsildar issued an order under Section 6 of the said Act, dated 23.05.2024, which is impugned herein.

2.We have heard Mr.M.Rajarajan, learned counsel for the petitioner and Mr.S.Shaji Bino, learned Special Government Pleader, who took notice for the respondents.



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3. On perusal of the impugned order issued under Section 6 of the Act, we find nothing about the reply, that has been given by the petitioner, dated 29.02.2024, where a very detailed reply has been given.

4. Even though the learned Special Government Pleader for the respondents, by relying upon the written instructions now given by the Tahsildar, dated 24.06.2024, has made submission, stating that this reply has been considered, that has not been reflected in the order impugned dated 23.05.2024.

5. Therefore, we feel that the order impugned was passed without having considered the representation or reply given by the petitioner.

6. Therefore, on that ground itself, the impugned order can be interfered with. Resultantly, the impugned order is quashed and the matter is remitted back to the respondents, especially, the 3rd respondent to reconsider the issue, where apart from the reply, that has been given by the petitioner on 29.02.2024, further or additional reply if any to be made, it is open to the petitioner to make it, after getting notice in this regard from the Tahsildar within a period of two weeks thereafter. On receipt of such additional reply from the petitioner along with the



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reply already given by him dated 29.02.2024, the issue can be revisited and decided on merits and in accordance with law by the 3rd respondent / Tahsildar.

7.With this direction, this Writ Petition is ordered. No costs.

Consequently, connected miscellaneous petitions are closed.

[R.S.K., J.] & [G.A.M., J.]
24.06.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

Yuva

To

- 1.The District Collector,
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