



W.P.(MD)No.16625 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.07.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

and

THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN

W.P.(MD)No.16625 of 2024

and

W.M.P.(MD)No.14395 of 2024

S.Kaliyammal

: Petitioner

Vs.

The Tahsildar,

Thiruppathur,

Sivagangai District.

: Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Certiorarified Mandamus, to call for the records relating to the impugned notice dated 10.07.2024 issued by the respondent with regard to the property comprised in Survey Number 25/3A in Mela Avinthipatti Village, N.Keelaiyur Panchayat, Thiruppathur Taluk, Sivagangai District and quash the same as illegal and consequently to direct the respondent not to harass the petitioner by way of misuse of his official capacity.



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For Petitioner : Mr.P.Aju Tagore

For Respondent : Mr.A.Kannan

Additional Government Pleader

O R D E R

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

Challenge has been made in this writ petition against the notice issued under Section 7 of the Land Encroachment Act, 1905, dated 10.07.2024.

2.It is the case of the petitioner as projected by the learned Counsel for the petitioner that, the land in question does not belong to the Government as it is not a Government Poramboke land and it is her own land as she inherited from her husband, who inherited from his father. Whatever be the defence she is taking now, she has to take it by way of giving reply to the notice issued under Section 7 of the Act dated 10.07.2024, which is impugned herein.

3.Under the scheme of the Act, if the revenue authorities feel that there has been any encroachment of the Government land,



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provisions of Act 3 of 1905 can be invoked, under which show cause notice can be issued under Section 7 of the Act and thereafter, with or without the reply after 15 days time, it is open to the revenue authorities to take action and pass final orders with regard to the eviction of the encroachment under Section 6 of the Act. This has also been reiterated in the earlier round of litigation filed by very same petitioner in W.P.(MD)No.3386 of 2024, by a Division Bench of this Court.

4. When that being the position, the petitioner cannot question the Section 7 notice as has been done in the present writ petition. Therefore, having regard to the said facts and circumstances and taking note of the submission made by the learned Counsel for the petitioner as well as the learned Additional Government Pleader for the respondent, we are inclined to dispose of this Writ Petition with the following order:

“that it is open to the petitioner to give reply to the notice dated 10.07.2024, under Section 7 of the Act within 15 days from today [23.07.2024]. If any such reply is given, that shall be considered by the respondent / revenue authorities and final orders shall be passed,



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provided if they find that there has been an encroachment on the part of the petitioner on the Government poramboke land. If no reply is given within 15 days, then also the revenue authorities are free to pass orders under Section 6 of the Act. Till such time, no further coercive steps shall be taken by the respondents."

5. With the aforesaid observation and directions, this Writ Petition is disposed of. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

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

23.07.2024

Neutral Citation : Yes/No

Index : Yes/No

Internet : Yes/No

MR

Note: Issue a copy of this order by 24.07.2024.



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To
The Tahsildar,
Thiruppathur,
Sivagangai District.



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

MR

ORDER MADE IN
W.P.(MD)No.16625 of 2024

23.07.2024