



W.P(MD)No.17672 of 2024(ii)

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.07.2024

CORAM:

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

**W.P(MD)No.17672 of 2024
and
W.M.P(MD)Nos.15164 & 15166 of 2024**

- 1.K.Pitchaiammal
- 2.K.Mohan
- 3.N.Kamalam
- 4.P.Amali
- 5.S.Arulananda Samy
- 6.S.Nagarajan
- 7.N.Poosathurai
- 8.C.Periya Samy
- 9.S.Palaniammal
- 10.M.Suresh Kumar

... Petitioners

VS.

- 1.The District Collector,
Ramanathapuram District,
Ramanathapuram.
- 2.The Tahsildar,
Paramakudi Taluk,
Paramakudi,
Ramanathapuram District.

... Respondents



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WEB C **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 in Na.Ka.No.A3/4844/2024 dated 12.07.2024 on the file of the second respondent and quash the same as illegal and consequently to direct the respondents to follow the due process of law as contemplated in Tamil Nadu Land Encroachment Act 1905 and the Revenue Standing Orders. In case of eviction proceedings if necessary within the time stipulated by this Court.

For Petitioners : Mr.S.Louis

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 herein in this Writ Petition is to quash the impugned order in Na.Ka.No.A3/4844/2024 dated 12.07.2024 on the file of the second respondent and consequently to direct the respondents to follow the due process of law as contemplated in Tamil Nadu Land Encroachment Act 1905 and the Revenue Standing Orders, in case of eviction proceedings if necessary within the time stipulated by this Court.



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2.As against the petitioners, provisions of the Tamil Nadu Land Encroachment Act, 1905 [in short hereinafter referred to as 'the said Act'], have been invoked, under which a notice under Section 7 of the said Act, dated 12.07.2024 has been issued to various persons including the petitioners herein.

3.Though it is a Section 7 notice, challenging the same would normally be not accepted by this Court, that too, in a writ proceeding, here the case of the petitioners as projected by Mr.S.Louis, learned counsel appearing for the petitioners that though it has been styled as a notice under Section 7 of the said Act, already they pre-determined that the petitioners are the encroachers and therefore, they should on their own voluntary action should vacate the land in question within 15 days. If that being so, it cannot be treated as a notice under Section 7 of the said Act, that is the main reason under which the impugned notice is under challenge.



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4.Heard Mr.N.Satheesh Kumar, learned Additional Government Pleader appearing for the respondents, who would submit that the wordings has not been happily given in the said notice, but that would not *ipso facto* make out a ground to challenge the same, as if that it is not a notice under Section 7 of the said Act. He would also submit that the present notice which is impugned herein shall be taken as a notice under Section 7 of the said Act and within 15 days, if any valuable reply is available with the petitioners, they can do so, by making a reply to the respondent Tahsildar, who after receipt the same, would consider the reply and take a final decision to pass orders under Section 6 of the Act.

5.The said submissions made by the learned counsel appearing for both sides having been considered, we are inclined to dispose of this Writ Petition with the following orders:

'(i) That the present impugned notice, dated 12.07.2024 shall be treated as a notice under Section 7 of the said Act, therefore, it is open to the petitioners to give their reply within 15 days from tomorrow.



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(ii) Within 15 days if no reply is given, it is open to the second respondent/the Tahsildar to take action in accordance with law. If any reply is given by the petitioners, the same shall be considered on merits and in accordance with law and accordingly, they can take a decision and to communicate the same either under Section 6 of the said Act or otherwise to the petitioners.

(iii) Till the final order is passed, as indicated above, no coercive steps shall be taken pursuant to the impugned notice.'

6. With these directions, the Writ Petition is disposed of. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

[R.S.K.,J.] [G.A.M.,J.]
30.07.2024
(1/2)

NCC : Yes / No
Index : Yes / No
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To

- 1.The District Collector,
Ramanathapuram District,
Ramanathapuram.
- 2.The Tahsildar,
Paramakudi Taluk,
Paramakudi,
Ramanathapuram District.



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

ps

ORDER MADE IN
W.P(MD)No.17672 of 2024

DATED : 30.07.2024
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