



WP(MD). No.19941 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 11/12/2024

CORAM

**THE HONOURABLE MR. JUSTICE M.S.RAMESH
AND
THE HONOURABLE DR. JUSTICE A.D. MARIA CLETE**

**WP(MD). No.19941 of 2021
and WMP(MD) No.16638 of 2021**

P.Ganapathy,

... Petitioner

Vs

1. The District Collector,
Madurai District,
Madurai..

2. The Tahsildar,
Thirumangalam Taluk,
Madurai District.

3.S.Rajasekaran

... Respondents

(3rd respondent has been impleaded
vide order dated 11.12.2024 in WMP(MD) No.2503/2022)

PRAYER :-Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari to call for the records of the impugned order of the 2nd respondent dated 14.09.2021 and quash the same as illegal.

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For Petitioner : M/s.M.Kannan
For Respondents : M/s. J.Ashok,
Additional Government Pleader

ORDER

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

Challenging the impugned order of the 2nd respondent dated 14.09.2021, 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.

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.



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4. Accordingly, the writ petition is allowed and the impugned order dated 14.09.2021 issued by the 2nd 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 petition is closed.

[M.S.R.,J] [A.D.M.C.,J]
11.12.2024

NCC : Yes/No
Index : Yes/No
RR

To
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2. The Tahsildar,

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Thirumangalam Taluk,
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