



W.P.(MD).No.20530 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 17.12.2024

CORAM

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

W.P.(MD).No.20530 of 2021
and
W.M.P.(MD).Nos.17169 of 2021 and 2140 of 2022

Amuthakani

... Petitioner

Vs.

The Tahsildar,
Aruppukottai Taluk,
Virudhunagar District.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of Certiorari, to call for the records of the impugned notice dated 06.09.2021 and consequential impugned order dated 22.10.2021 on the file of the respondent and quash the same.

For Petitioner : Mr.G.Prabhu Rajadurai

For Respondent : Mr.S.Shaji Bino

Special Government Pleader



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ORDER

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

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Final order passed under Section 6 of the Tamil Nadu Land Encroachment Act, 1905 (hereinafter referred to as 'the Act') is put under challenge in the present Writ Petition.

2. When the Tahsildar was of the view that the petitioner had encroached upon 40 sq.m., in S.No.239/24, Vaduvarpatti Village, Aruppukottai Taluk, Virudhunagar District, notice under Section 7 of the Act was issued to the petitioner calling for his objection in this regard. Pursuant to the same, the petitioner herein had submitted a detailed reply on 07.09.2021, putting forth all his objections to the notice under Section 7 of the Act. In spite of the objections given, the Tahsildar has now passed the impugned proceedings dated 22.10.2021 under Section 6 of the Act, directing him to evict from the subject property.

3. The very object of Section 7 of the Act is to extend an opportunity to the encroachers to give their objections with regard to the proposed eviction proceedings. It is only after such a notice under Section 7 of the Act is given, the respondent may be empowered to proceed under Section 6. However, while



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passing such order, there is a duty cast upon them to consider the explanation rendered by the encroachers to the notice given under Section 7.

4. A perusal of the order passed under Section 6 of the Act, dated 22.10.2021 reveals that, though the respondent seems to have received the explanation given by the petitioner to the notice under Section 7, the same has not been considered. We fail to understand as to how the respondent had come to the conclusion that the petitioner is an encroacher, more particularly, when he has raised objections to the proposed eviction proceedings.

5. In view of the same, the order impugned in the Writ Petition is deemed to be a non-speaking order and hence, cannot be legally sustained. However, we are of the view that the respondent could be granted liberty to consider the petitioner's explanation dated 07.09.2021 and then take further course of action.

6. In the light of the above, the Writ Petition is partly allowed. The impugned order dated 22.10.2021 is quashed and the matter is remitted back to the respondent herein for fresh consideration. The respondent shall consider the petitioner's explanation dated 07.09.2021 and thereafter take further course of action in accordance with the provisions of the Act and pass a speaking



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order. Such an exercise shall be completed, within a period of four (4) weeks from the date of receipt of a copy of this order. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

(M.S.R.,J.) (A.D.M.C.,J.)
17.12.2024

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

To

The Tahsildar,
Aruppukottai Taluk,
Virudhunagar District.



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and
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