



W.P.(MD)No.26548 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

and

THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE

W.P.(MD)No.26548 of 2024

and

W.M.P.(MD)No.22505 of 2024

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: Petitioner

Vs.

- 1.The District Collector,
Ramanathapuram.
- 2.The Revenue Divisional Officer,
Ramanathapuram.
- 3.The Tahsildar,
Rameswaram,
Ramanathapuram District.
- 4.The Block Development Officer,
Mandapam Panchayat Union,
Utchipuli,
Ramanathapuram District.



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5.The Commissioner,
Mandapam Panchayat Union,
Utchipuli,
Ramanathapuram District.

6.The President,
Village Panchayat,
Pamban,
Ramanathapuram District.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order dated 08/08/2024 in Na.Ka.No.A4/2775/2023 passed by the third respondent and quash the same and consequentially forbear the respondents from evicting the petitioner and other inhabitants from Survey No.1097, Pamban Village, Rameswaram Taluk, Ramanathapuram District till alternative accommodations is provided to them.

For Petitioner : Mr.J.Barathan

For Respondents 1 to 3 : Mr.J.Ashok

Additional Government Pleader

For Respondent No.4 : Mr.K.Saravanan

Standing Counsel

For Respondents 5 & 6 : Mr.S.R.A.Ramachandran



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ORDER

[Order of the Court was made by M.S.RAMESH, J.]

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 0.0020.0 sq.mt out of 0.42.0 sq.mt, in S.No. 1097, Pamban Village, Rameswaram, Rameswaram 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 22.06.2024, 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 08.08.2024 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 respondents may be



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empowered to proceed under Section 6. However, while 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 08.08.2024 reveals that, though the 2nd 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 respondents have 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 respondents could be granted liberty to consider the petitioner's explanation dated 22.06.2024 and then take further course of action.

6.In the light of the above, this Writ Petition is partly allowed and the impugned order dated 08.08.2024 is quashed and



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the matter is remitted back to the second respondent herein for fresh consideration. The second respondent shall consider the petitioner's explanation dated 22.06.2024, after giving opportunity to the petitioner as well as to any other person interested and thereafter take further course of action in accordance with the provisions of the Act and pass a speaking 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, the connected Miscellaneous Petition is closed.

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

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Neutral Citation : Yes/No

Index : Yes/No

Internet : Yes/No

MR



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M.S.RAMESH, J.
and
A.D.MARIA CLETE, J.

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ORDER MADE IN
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