



W.P(MD)No.28199 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.11.2024

CORAM :

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

**W.P(MD)No.28199 of 2024
and
WMP(MD)No.23906 of 2024**

Gurusamy

... Petitioner

VS.

1. The State of Tamil Nadu,
Rep. its Principal Secretary,
Revenue Department,
Chennai.

2. The District Collector,
O/o. The District Collector,
Theni District.

3. The Revenue Divisional Officer,
O/o. The Revenue Divisional Officer,
Theni,
Theni District.

4. The Tahsildar
Taluk Office,
Periyakulam,
Theni District.

5. The Block Development Officer,
Periyakulam Panchayat Union,
Periyakulam Taluk,
Vadugapatti,
Theni District.



6. The Revenue Inspector,
Tenkarai Sub Division,
Periyakulam Taluk,
Theni District.

7. The Superintending Engineer,
TEDC, TANGEDCO,
Madhurapuri,
Theni District.

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, forbearing the respondents from dispossessing the petitioner from his residence bearing Door No.136, comprised in S.No.1533/1, Madurapuri Village, Alagapuri Post, Periyakulam Taluk, Theni District, pursuant to the notice dated 21.10.2024 issued by the 6th respondent under Section 7 of the Tamil Nadu Land Encroachment Act, 1905 without following the due procedure established by law.

For Petitioners	: Mr.Ajmal Khan, Senior Counsel, for M/s.Ajmal Associates
For R1 to R6	: Mr.J.Ashok Additional Government Pleader
For R7	: Mr.S.Deenadhayalan

ORDER

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

The procedure contemplated under the Tamil Nadu Land Encroachment Act 1905, for removal of encroachment is through an eviction order under Section 6, which is to be preceded by a show cause notice under Section 7, to which, the alleged encroacher would have a right to raise his objections. The order for eviction can be passed, only after consideration of the



objections made by the concerned persons. This is precisely what the earlier Bench had recorded in the order in W.P(MD)No.4824 of 2018 dated 24.08.2022, where, directions were given to follow the procedure contemplated under the Tamil Nadu Land Encroachment Act, 1905, for removal of the encroachment.

2. The prayer in the present writ petition is for issuance of Writ of Mandamus, forbearing the respondents from dispossessing the petitioner from his residence.

3. Admittedly, notice under Section 7 has already been issued to the petitioner, to which, he had also given his objections. When the respondents have initiated the proceedings for eviction in accordance with the procedure contemplated under the Act, the same should come to a logical conclusion as per the procedure.

4. The Act does not empower the authorities to resort to any coercive action for eviction, before a finality is arrived at in the eviction proceedings. In view of this, the apprehension of the petitioner that he may be evicted from the premises before conclusion of the eviction proceedings, is baseless, and thus no interference is warranted to the prayer sought for in this writ petition.



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5. Accordingly, the Writ Petition stands closed. No costs.

Consequently, connected miscellaneous petition is closed.

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(M.S.R, J.) (A.D.M.C, J.)
27.11.2024

Index : Yes / No
Neutral Citation : Yes / No
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