



W.P(MD)No.28227 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.28227 of 2024
and
WMP(MD)No.23940 of 2024**

M.Samikkannu

... Petitioner

VS.

1. The District Collector,
District Collector Office,
Theni District, Theni.

2. The District Revenue Officer,
District Revenue Office,
Theni District, Theni.

3. The Revenue Divisional Officer,
Revenue Divisional Office,
Periyakulam,
Theni District.

4. The Tahsildhar,
Andipatti Taluk,
Andipatti, Theni District.

5. The Revenue Inspector,
Mayiladumparai,
Andipatti, Theni District.

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India, to
issue a Writ of Certiorarified Mandamus, to call for the Impugned eviction

<https://www.mhc.tn.gov.in/judis>



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Notice dated 18.11.2024 issued by the 4th respondent and quash the same as illegal and consequently direct the 4th respondent to issue patta in the name of the petitioner in the said property.

For Petitioners : Mr.D.Srinivasa Ragavan for
Mr.M.Maran
For Respondents : Mr.SRA.Ramachandran
Additional Government Pleader

ORDER

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

By consent of both sides, the writ petition itself is taken up for final disposal at the stage of admission itself.

2. 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.

3. When the Revenue Inspector / 5th respondent was of the view that the petitioner had encroached upon 0.01.21 ares out of 0.25.59 ares, in Survey No.1628/1 at Kadamalaikundu Village, Andipatti Taluk, Theni 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 04.10.2024 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 18.11.2024 under Section 6 of the Act, directing him to evict from the subject property.

4. 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 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.

5. A perusal of the order passed under Section 6 of the Act, dated 18.11.2024 reveals that, though the 5th 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 had come to the conclusion that the petitioner is an encroacher, more particularly, when he has raised objections to the proposed eviction proceedings.

6. 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



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consider the petitioner's explanation dated 04.10.2024 and then take further course of action.

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7. In the light of the above, the writ petition is partly allowed and the impugned order dated 18.11.2024 is quashed and the matter is remitted back to the respondents herein, for fresh consideration. The respondents shall consider the petitioner's explanation dated 04.10.2024 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 three months from the date of receipt of a copy of this order. There shall be no order as to costs. Consequently connected Miscellaneous Petition is closed.

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

Index : Yes / No
Neutral Citation : Yes / No
bala

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Theni District, Theni.

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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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DATED : 27.11.2024