



W.P.No.1998 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.01.2025

CORAM:
THE HONOURABLE MR.JUSTICE M.SUNDAR
and
THE HONOURABLE MR.JUSTICE K.RAJASEKAR

W.P.No.1998 of 2025 and W.M.P. No.2330 of 2025

R. Regina

Petitioner

vs.

1. The Tahsildar
Tambaram Taluk
Tambaram
2. The Revenue Inspector
Madambakkam Firka
Tambaram Taluk
Tambaram

Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus calling for records to first respondent's notice dated 06.01.2025 and quash the same and consequently, direct the first respondent to conduct enquiry in respect of notice dated 22.10.2024 issued by the second respondent.

For petitioner Mr. K. Sakthivel

For respondents Mr. T.K. Saravanan
Government Advocate

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ORDER

[made by M.SUNDAR, J.]

Captioned main writ petition has been filed *inter alia* assailing an order/notice dated 06.01.2025 made by R1 (Tahsildar, Tambaram Taluk, Tambaram) under Section 6 of 'the Tamil Nadu Land Encroachment Act, 1905 (Tamil Nadu Act III of 1905) (for brevity 'said 1905 Act')'. This order/notice shall, from here on and henceforth, be referred to as 'impugned order' for the sake of convenience and clarity.

2. The noticees *qua* impugned order are (i) Ms. R. Regina, Wife of Mr. K. Rajendran and (ii) Mr. K. Rajendran, Son of Mr.K.M.Krishnan. Though the impugned order is addressed to Ms.R.Regina and Mr. K. Rajendran, notice under Section 7 of said 1905 Act has been served only on Mr. K. Rajendran, is learned counsel's say.

3. Issue notice to respondents.



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4. Mr. T.K. Saravanan, learned Government Advocate, accepts notice for both respondents and submits that in response to notice under Section 7 of said 1905 Act (notice signed on 22.10.2024) issued by R2, response showing cause dated 06.11.2024 has been given and this response is from Mr. K. Rajendran but it has been signed by Ms.R.Regina.

5. Owing to the limited scope of the captioned main WP, with the consent of learned counsel for both sides, main WP was taken up in the Admission Board.

6. The entire matter, *i.e.*, main WP, now turns on a short point. The short point is, while Section 7 notice has been issued to Mr.K.Rajendran, S/o Mr. K.M. Krishnan, though noticee Mr.K.Rajendran has responded saying that he has transferred the subject matter land to his wife Ms. R. Regina and that Ms. R. Regina is absolute owner of land that is subject matter of Section 7 notice, impugned order has been directly issued to Ms. R. Regina by-passing Section 7. To be noted, subject matter land is land comprised in Survey No.206/1 in



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No.17 Agaram Then Village, Tambaram Taluk, Chengalpattu District
(hereinafter 'said land' for the sake of convenience and clarity).

7. The scheme of said 1905 Act is very clear that serving a notice under Section 7 is statutorily imperative for resorting to Section 6. In this case, Section 6 has been resorted to *qua* writ petitioner Mrs.R. Regina without a notice to her under Section 7. At this juncture, it will be apropos to point out that in **Hamsavalli vs. The Tahsildar, Vriddhachalam, South Arcot District** reported in **AIR 1990 Madras 350 : 1990 WLR 151**, a Hon'ble Division Bench of this Court held that notice under Section 7 is a statutory prescription which cannot be given a go-by even if an enquiry has been held under Section 6.

8. Be that as it may, it is also to be noticed that a notice under Section 7 was sent to Mr. K. Rajendran and he has responded in no uncertain terms that Ms. R. Regina is the absolute owner *qua* said land. At least after this response, notice under Section 7 should have been issued to Ms. R. Regina (writ petitioner). On this short point, we are interfering *qua* impugned order.



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9. The following order is made:

(i) Impugned order issued by R1 is set aside;

(ii) Impugned order is set aside on the lone point that it was not preceded by a notice under Section 7 *qua* writ petitioner Ms. R. Regina;

(iii) Sequitur of the previous point is, we have not expressed any view or opinion on the merits of the matter;

(iv) Further sequitur is, it is open to the respondents to issue a notice afresh to writ petitioner Mrs.R. Regina and for this purpose, all questions are left open;

(v) Considering the nature of the matter, we deem it appropriate to record the statement of learned State counsel that notice under Section 7 of said 1905 Act will now be issued to Ms. R. Regina as expeditiously as the business of respondents would permit but in any event within one week from today *i.e.*, on or before 31.01.2025; and

(vi) Though obvious, we make it clear that when notice in the aforesaid manner is issued, all questions are left open, the matter shall be concluded on its own merits and in accordance with law as expeditiously as possible as



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the business of the respondents would permit but in any event within six weeks from today *i.e.*, on or before 07.03.2025.

Captioned main WP stands disposed of in the aforesaid manner.
Consequently, captioned writ miscellaneous petition thereat is closed.
There shall be no order as to costs.

(M.S., J.) (K.R.S., J.)
24.01.2025

Index : Yes / No
Neutral Citation : Yes / No
Speaking order / Non-speaking order

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M.SUNDAR, J.

and

K.RAJASEKAR, J.

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To

1. The Tahsildar
Tambaram Taluk
Tambaram
2. The Revenue Inspector
Madambakkam Firka
Tambaram Taluk
Tambaram

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