



W.P. No.7190 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.03.2025

WEB COPY

CORAM:
THE HONOURABLE MR.JUSTICE M.SUNDAR
and
THE HONOURABLE MRS. JUSTICE K. GOVINDARAJAN THILAKAVADI

W.P.No.7190 of 2025 and W.M.P. No.7983 of 2025

E. Narayanasamy

Petitioner

vs.

1. The District Collector
District Collectorate Office
Tiruvallur
Tiruvallur District

2. The Revenue Inspector
Office of the Tahsildar
Uthukottai
Tiruvallur District

3. The Block Development Officer
Ellapuram Panchayat Union
Uthukottai
Tiruvallur District

Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorari to call for the records of the second respondent's notice dated 22.01.2025 under Section 7 of the Land Encroachment Act, 1905 and quash the same.

For petitioner

Mr. C. Venkatesan

For RR 1 & 2

Mr. K. Suresh, Govt. Advocate

For R3

Mr. M.S. Arasakumar, Govt. Advocate

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ORDER

[made by K. GOVINDARAJAN THILAKAVADI, J.]

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This writ petition has been filed calling in question the notice dated 22.01.2025 issued by the second respondent (Revenue Inspector) under Section 7 of the Tamil Nadu Land Encroachment Act, 1905 (Tamil Nadu Act III of 1905) (for brevity "the Act").

2. Mr. C. Venkatesan, learned counsel for the writ petitioner, submits that the petitioner's house is situate in S.No.334/1, Choolaimeni Village, Uthukottai Taluk, Tiruvallur District, which is classified as a Grama Natham under the UDR scheme and patta no.74 was issued to him; while so, on 22.01.2025, the second respondent issued the impugned notice under Section 7 of the Act alleging that the writ petitioner has made encroachment, besides directing the writ petitioner to remove the alleged encroachment; hence, this writ petition seeking the aforesaid relief.

3. Issue notice to the respondents.

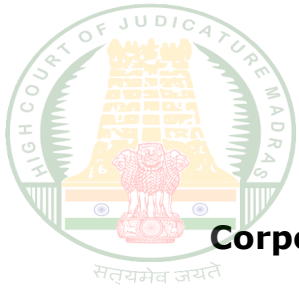


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4. Mr. K. Suresh, learned Government Advocate, accepts notice for RR 1 and 2 and Mr. M.S. Arasakumar, learned Government Advocate, accepts notice for R3.

5. Mr. M.S. Arasakumar, learned Government Advocate for R3, on instructions, submitted that despite receipt of the impugned notice, the writ petitioner chose not to respond and hence, a notice under Section 6 of the Act has been issued to the writ petitioner for removal of encroachment.

6. When such is the factual scenario, challenging the notice issued under Section 6 of the Act, the writ petitioner has got an appeal remedy under Section 10 of the Act and when the appeal remedy is not exhausted, this writ petition cannot be entertained. While holding so, this Court is conscious of the fact that notwithstanding alternative remedy, Article 226 of the Constitution of India can be invoked under four exceptional circumstances, viz., (i) Enforcement of fundamental rights, (ii) Violation of Natural Justice Principles (NJP), (iii) Order being 'wholly' without jurisdiction and (iv) when the vires of a statute are assailed, as was held by the Supreme Court in **Whirlpool**



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Corporation vs. Registrar of Trade Marks, Mumbai and others

reported in **(1998) 8 SCC 1**. But, to be noted, none of the aforesaid four circumstances obtains in this case.

7. In such perspective of the matter, this writ petition fails and is accordingly dismissed, however, sans costs. Connected W.M.P. stands closed.

(M.S., J.) (K.G.T., J.)
05.03.2025

cad
Index : Yes/No
NC : Yes/No



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