



W.P.No.18431 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 16.06.2025

CORAM

THE HONOURABLE MR.JUSTICE **M.SUNDAR**
and
THE HONOURABLE MR.JUSTICE **HEMANT CHANDANGOUDAR**

W.P.No.18431 of 2021
and
W.M.P.No.19645 of 2021

K.Raju
S/o.Kuppusamy

... Petitioner

vs.

1. The District Collector
Salem District
Salem.
2. The Revenue Divisional officer
Mettur Range
Mettur
Salem District.
3. The Thasildar
Mettur Taluk
Salem District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India
seeking a Writ of Certiorarified Mandamus, to call for the records made in
impugned notice under Section 7 of Tamil Nadu Land Encroachment Act

Page Nos.1/9



W.P.No.18431 of 2021

affixed on 30.07.2021 passed by the third respondent herein and quash the same as illegal without jurisdiction and permit the petitioner to continue to cultivate the land of 2 acres bearing Survey No.140/1A, Parai Poromboke, situated at M.Kalipatti Village Macheri Village, Mettur Taluk, Salem District.

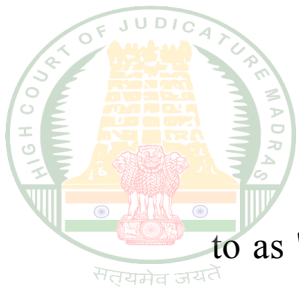
For Petitioner : Mr.R.Sankarasubbu
For Respondents : Mr.T.K.Saravanan
Additional Government Pleader

ORDER

[Order of the Court was made by **M.SUNDAR J.**]

Captioned 'Writ Petition' {hereinafter 'WP' for the sake of brevity, convenience and clarity} has been filed with a prayer for issue of a writ of Certiorarified Mandamus.

2. Certiorari limb assails a notice dated 30.07.2021 issued by R3 [The Thasildar, Mettur Taluk, Salem District] under Section 7 of 'the Tamil Nadu Land Encroachment Act, 1905 (Tamil Nadu Act III of 1905)' {hereinafter 'said 1905 Act' for the sake of brevity}, which shall hereinafter be referred



W.P.No.18431 of 2021

to as 'impugned notice' for the sake of brevity, convenience and clarity. In and vide a mandamus limb, prayer is to permit the petitioner to continue to cultivate 'land admeasuring 2 acres or thereabouts situate in S.No.140/1A in M.Kalipatti Village, Mettur Taluk, Salem District, which is classified as Parai Poromboke' {hereinafter 'said land' for the sake of brevity, convenience and clarity}.

3. Mr.R.Sankarasubbu, learned counsel on record for writ petitioner, advertng to the impugned notice submits that it does not mention the survey number.

4. Learned counsel submits that the writ petitioner nonetheless being put under pain of dispossession responded to the impugned notice in and vide a detailed response dated 02.08.2021 *inter alia* pointing out that the writ petitioner has been granted patta in Ex-serviceman Quota (to be noted, writ petitioner joined Indian Army as a Sepoy in 1984 and retired in 2000 after serving a little over 16 years). Learned counsel drew our attention to the allotment order and that talks about allotment qua S.No.140/1A in M.Kalipatti Village.



W.P.No.18431 of 2021

5. In response to the above submission, learned State Counsel pointed out that afore-referred response of writ petitioner dated 02.08.2021 has been considered and an order under Section 6 of said 1905 Act being an order dated 16.08.2021 has since been made by R3. To this, learned counsel for the writ petitioner submitted that Section 6 order has not been served on the writ petitioner.

6. A careful perusal of the counter affidavit brings to light that the writ petitioner was in fact given allotment in Ex-serviceman quota and allotment is qua S.No.140/1A but thereafter, there appears to be an order made by R2 saying that errors have occurred during mutation and subdivision of S.No.140/1A has been written wrongly. In this view of the matter, survey number assumes immense significance. The sequitur is, issue of impugned notice without mentioning the survey number clearly has hampered the rights of writ petitioner / noticee. Be that as it may, Section 7 of said 1905 Act reads as follows:

'7. Prior notice to person in occupation.- Before taking proceedings under section 6, the Collector or Tahsildar, or Deputy Tahsildar or Revenue Inspector or any authorized officer or any other officer specified by the State



WEB COPY



W.P.No.18431 of 2021

Government in this behalf (not being an authorised officer) (hereinafter referred to as the 'specified officer') as the case may be, shall cause to be served on the person reputed to be in unauthorised occupation of land being the property of Government a notice specifying the land so occupied and calling on him to show cause before a certain date why he should not be proceeded against under section 6.

Such notice shall be served in the manner prescribed in section 25 of the Tamil Nadu Revenue Recovery Act, 1864 (Tamil Nadu Act II of 1864), or in such other manner as the State Government by rules or orders under section 8 may direct:

Provided that no such notice shall be necessary in the case of any person unauthorisedly occupying any land, if he has been previously evicted from such land under section 6 or if he has previously vacated such land voluntarily after the receipt of a notice under section 5-B or under this section:

Provided further that where the notice under this section is caused to be served by any Revenue Inspector or any specified officer; he shall require the person reputed to be in unauthorised occupation of the land to show cause against such notice to the Collector, Tahsildar or Deputy Tahsildar or authorised officer having jurisdiction, as the case may be, and shall also make a report in writing containing such particulars as may be specified in rules or orders made under section 8 to the Collector, Tahsildar or Deputy Tahsildar or authorised officer having jurisdiction, as the case may be.'



W.P.No.18431 of 2021

*{underlining made
by this Court for ease of reference}*

WEB COPY 7. Therefore, a notice under Section 7 of said 1905 Act should specify the land occupied by the noticee. In the instant case, as already alluded to supra, the impugned notice does not mention the survey number and therefore, this Court has no hesitation in coming to the conclusion that the impugned notice does not 'specify the land so occupied' which is statutorily imperative in the light of the language in which Section 7 of said 1905 Act is couched.

8. The above also means that there is direct NJP ['Natural Justice Principles'] violation as the noticee cannot be called upon to respond to the notice which does not specify the land so occupied.

9. In the light of the narrative, discussion and dispositive reasoning thus far, we are of the considered view that the impugned notice is liable to be interfered with and it deserves to be dislodged owing to infraction of the very provision under which it has been issued.

10. To be noted, we have also taken into account the obtaining position that the writ petitioner is an Ex-serviceman; that the writ petitioner was admittedly given some allotment in Ex-serviceman Quota; that there is



W.P.No.18431 of 2021

some confusion regarding the survey number and therefore, this order shall not serve as a precedent in all and every cases. To put it differently, this order is being made in the light of the unique factual matrix of this case.

11. As Section 6 order dated 16.08.2021 is said to have been made, it is only appropriate that Section 6 order is also dislodged.

12. Ergo the sequitur is, the following order is made:

(i) Impugned notice dated 30.07.2021 under Section 7 of said 1905 Act is set aside;

(ii) Order dated 16.08.2021 under Section 6 of said 1905 Act made pursuant to the impugned notice is also set aside;

(iii) It is open to the State to issue notice afresh setting out the survey number and the land in occupation of the writ petitioner with specificity and clarity, if so advised and if so desired;

(iv) If the above course is adopted by the State, we make it clear that all rights and contentions of the writ petitioner are preserved to respond to the same and the



W.P.No.18431 of 2021

matter shall proceed on its own merits and in accordance

WEB COPY with law qua said 1905 Act.

Captioned WP allowed with the aforementioned observations and further directives. As we have allowed the captioned WP, the question of coercive action pursuant to the impugned notice or Section 6 order does not arise owing to which the captioned Writ Miscellaneous Petition has become otiose and the same is disposed of as closed. There shall be no order as to costs.

(M.S.J.,)

(H.C.J.,)

16.06.2025

Index : Yes / No

Neutral Citation : Yes / No

Speaking / Non-speaking

mk

To

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Page Nos.8/9



WEB COPY



W.P.No.18431 of 2021

**M.SUNDAR, J.,
and
HEMANT CHANDANGOUDAR, J.,**

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W.P.No.18431 of 2021

**16.06.2025
(2/2)**

Page Nos.9/9