



W.P.(MD).No.1184 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 23.01.2025

CORAM

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

W.P.(MD).No.1184 of 2025
and
W.M.P.(MD).Nos.801 and 802 of 2025

R.Thiruvullam

... Petitioner

Vs.

1.The District Collector,
Virudhunagar District,
Virudhunagar.

2.The Tahsildar,
Aruppukkottai Taluk,
Virudhunagar District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of Certiorarified Mandamus, to call for the records pertaining to the impugned notice dated 22.09.2023 issued under Section 7 of Tamil Nadu Land Encroachment Act, 1905 and the consequential impugned notice dated 30.12.2024 issued under Section 6 of Tamil Nadu land Encroachment Act 1905, both issued by the 2nd respondent and quash the same and consequently restraining the respondents from interfering with the peaceful possession and enjoyment of Adi Dravidar Uraminmurai, Kovilangulam in respect of Survey No.234/3 (28 cents), situates Kovilangulam Village, Aruppukkottai Taluk, Virudhunagar District.



For Petitioner : Mr.B.Vinothkumar

For Respondents : Mr.S.R.A.Ramachandran

Additional Government Pleader

ORDER

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

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.

2. When the Tahsildar was of the view that the petitioner had encroached upon 0.11.50 hectares, in S.No.234/3, Kovilangulam Village, Aruppukkottai Taluk, Virudhunagar 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 10.10.2023, 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 30.12.2024 under Section 6 of the Act directing him to evict from the subject property.

3. 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



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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.

4. A perusal of the order passed under Section 6 of the Act, dated 30.12.2024 reveals that, though the second 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.

5. 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 second respondent could be granted liberty to consider the petitioner's explanation dated 10.10.2023 and then take further course of action.

6. In the light of the above, the Writ Petition is partly allowed and the impugned order dated 30.12.2024 is quashed and the matter is remitted back to



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the second respondent herein for fresh consideration. The second respondent shall consider the petitioner's explanation dated 10.10.2023 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 four (4) weeks from the date of receipt of a copy of this order. There shall be no order as to costs. Consequently connected miscellaneous petitions are closed.

(M.S.R.,J.) (A.D.M.C.,J.)
23.01.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
Lm

To

1.The District Collector,
Virudhunagar District,
Virudhunagar.

2.The Tahsildar,
Aruppukkottai Taluk,
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