



W.P(MD)No.1492 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.01.2025

CORAM :

**THE HONOURABLE MR.JUSTICE P.VELMURUGAN
and
THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN**

**W.P(MD)No.1492 of 2025
and
WMP(MD)Nos.1086 and 1088 of 2025**

1. Pandian @ Vellai Pandian
2. Nagamani

... Petitioners

vs.

1. The District Collector,
Collectorate, Theni.

2. The Revenue Divisional Officer / Monitoring Committee,
Office of the Revenue Divisional Officer,
Theni.

3. The Tahsildar,
Andipatti Taluk,
Theni District.

4. The Block Development Officer,
Panchayat Union Office,
Andipatti Taluk,
Theni District.

5. The Revenue Inspector,
Rajadhani, Andipatti Taluk,
Theni District.

... Respondents



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Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the 3rd respondent in his proceedings in Na.Ka.No.4565/2024/A3 dated 09.01.2025 and quash the same as arbitrary, illegal and against the principles of natural justice and consequently forbearing the respondents from evicting the pipeline underneath the land in S.F.No.195/2 which laid between the petitioners' patta land in S.F.Nos.162/1 and 195/3 situated in Rajathani Village, Andipatti Taluk, Theni District.

For Petitioners	: Mr.S.Sankar
For Respondents	: Mr.P.Subbaraj Special Government Pleader

ORDER

(Order of the Court was made by **P.VELMURUGAN, J.**)

Challenging the eviction notice issued under Section 6 of the Tamil Nadu Land Encroachment Act, 1905, the petitioners have filed this writ petition to quash the same, on the ground of violation of principles of natural justice. The petitioners have also sought for a consequential direction to forbear the respondents from evicting the pipeline underneath the land in S.F.No.195/2, which was laid between the petitioners' patta lands in S.F.Nos. 162/1 and 195/3 situated in Rajathani Village, Andipatti Taluk, Theni District.



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2. It is seen from the records that earlier, the petitioners filed a writ petition in W.P(MD)No.25633 of 2024, for a Mandamus to direct the respondents 2 and 3 therein, to conduct survey and fix four boundaries with respect to the properties in S.F.Nos.162/1 and 195/3, situate in Rajathani Village, Andipatti Taluk, Theni District, and consequently to issue separate patta in respect of the abovesaid properties, based on their representations dated 30.07.2024 and 08.10.2024. This Court, by order dated 28.10.2024, has allowed the said writ petition, with the following direction:

"4. Considering the case of the petitioners and also the fact that the petitioners have made their representation on 23.09.2024, a mandamus is issued to the respondents to conduct survey and subdivision of the petition mentioned property. The petitioners shall submit all the relevant records to show their title to the property and the respondents shall, after issuing notice to the adjacent land owners and interested parties, hold an enquiry and thereafter, proceed to pass orders either surveying and subdividing the property or rejecting the request. In the case of a rejection, a speaking order shall be passed. The aforesaid exercise shall be completed within a period of two months from the date of receipt of a copy of this order. "

3. Pursuant to the said direction of this Court, the respondents conducted enquiry and found that the petitioners herein have encroached upon the burial ground in Survey No.195/2, to an extent of 18 meters, by putting up a



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pipeline. Thereafter, the 5th respondent / Revenue Inspector issued a show cause notice under Section 7 of the Tamil Nadu Land Encroachment Act, 1905, to the petitioners, calling upon them to submit their explanation as to why the said encroachment made by them should not be removed. The petitioners submitted a detailed objection to the show cause notice on 14.12.2024, contending that the alleged pipeline was in existence for about 40 years and since it is underneath, it does not hinder to any one, as such, it cannot be termed as an encroachment. On receipt of such objection, the 3rd respondent / Tahsildar has passed an order dated 06.01.2025, stating that when the revenue records classifies S.No.195/2 as a burial ground, the petitioners are not entitled to lay pipeline underneath the land in the said survey number. Thereafter, the 3rd respondent issued the impugned eviction notice dated 09.01.2025, under Section 6 of the Act, directing the petitioners to remove the said encroachment within 7 days from the date of receipt of the notice, failing which, action will be taken for eviction of encroachment. Challenging such notice, the petitioners are before this Court.

4. Perusal of records shows that only based on the direction issued by this Court in W.P(MD)No.25633 of 2024 filed by the petitioners, the respondents conducted an enquiry, wherein, they have found that the petitioners



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have encroached upon the burial ground in Survey No.195/2, by putting up a pipeline and therefore, issued a show cause notice in accordance with the provisions of the Tamil Nadu Land Encroachment Act, 1905. After the receipt of objections by the petitioners, by order dated 06.01.2025, the 3rd respondent has considered and rejected the same and thereafter, has issued the consequential impugned eviction notice. However, without challenging the order dated 06.01.2025 passed by the 3rd respondent, the petitioners have filed this writ petition, challenging the eviction notice alone. It is a common understanding that without challenging the original order, the writ petition filed challenging the consequential order, cannot be entertained. As such, the petitioners are not entitled to the relief sought for.

5. Accordingly, the Writ Petition is dismissed. However, the petitioners are at liberty to work out their remedies in the manner known to law. No costs. Consequently, connected miscellaneous petitions are closed.

(P.V, J.) (M.J.R, J.)
17.01.2025

Index : Yes / No
Neutral Citation : Yes / No
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To

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ORDER MADE IN
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