



W.P.(MD).No.1646 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 22.01.2025

CORAM

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

W.P.(MD).No.1646 of 2025

and

W.M.P.(MD).Nos.1175 to 1177 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,
Theni.

3.The Tahsildar,
Andipatti Taluk,
Theni District.

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



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

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order in Na.Ka.No.4565/2024/Aa3 dated 06.01.2025 and impugned consequential eviction order in Na.Ka.No.4565/2024/Aa3 dated 09.01.2025 passed by the 3rd respondent 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.Krishnan

For Respondents : Mr.S.Shaji Bino

Special Government Pleader

ORDER

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

By consent of both sides, the Writ Petition is taken up for final disposal at the stage of admission itself.



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2. 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.

3. When the Revenue Inspector was of the view that the petitioners had encroached upon 18 meters through pipeline out of 0.21.31 ares, in S.F.No. 195/2, Old Survey No.327/17, Rajathani Village, Andipatti Taluk, Theni District, notice under Section 7 of the Act was issued to the petitioners calling for their objections in this regard. Pursuant to the same, the petitioners herein had submitted a detailed reply on 14.12.2024, putting forth all their 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 09.01.2025 under Section 6 of the Act directing the petitioners to remove the encroachment from the subject property.

4. 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 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,



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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.

5. A perusal of the order passed under Section 6 of the Act, dated 09.01.2025 reveals that, though the third respondent seems to have received the explanation given by the petitioners 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 petitioners are encroachers, more particularly, when they have raised objections to the proposed eviction proceedings.

6. 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 respondents could be granted liberty to consider the petitioners' explanation dated 14.12.2024 and then take further course of action.

7. In the light of the above, the Writ Petition is partly allowed and the impugned order dated 09.01.2025 is quashed and the matter is remitted back to the third respondent herein for fresh consideration. The third respondent shall consider the petitioners' explanation dated 14.12.2024 and thereafter take



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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.)
22.01.2025

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

To

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Theni.
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