



W.P.(MD)No.1765 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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.1765 of 2025

and

W.M.P.(MD)Nos.1263, 1264 & 1266 of 2025

S.Palanisamy

: Petitioner

Vs.

1.The District Collector,
Virudhunagar, Virudhunagar District.

2.The Revenue Tahsildar,
Rajapalayam, Virudhunagar District.

3.T.Kumar

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Certiorari, calling for the records relating to impugned order in Na.Ka.No.A6/10367/2023 dated 09.01.2025 of the second respondent herein and quash the same.

For Petitioner : Mr.T.Pon Ramkumar

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

Additional Government Pleader



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ORDER

[Order of the Court was made by M.S.RAMESH, J.]

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

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 Tahsildar was of the view that the petitioner had encroached upon 0.00.11 sq.mts. out of 0.01.84 sq. mts in S.No.1183/28, Puthur Village, Rajapalayam 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 06.01.2025, 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 09.01.2025 under Section 6 of the Act, directing him to evict from the subject property.



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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, 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 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 have come to the conclusion that the petitioner is an encroacher, more particularly, when he has 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 second respondent could be granted liberty to consider the petitioner's



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explanation dated 06.01.2025 and then take further course of action.

7.In the light of the above, this Writ Petition is partly allowed and the impugned order dated 09.01.2025 is quashed and the matter is remitted back to the second respondent herein for fresh consideration. The second respondent shall consider the petitioner's explanation dated 06.01.2025, after giving opportunity to the petitioner as well as to any other person interested 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

Neutral Citation : Yes/No

Index : Yes/No

Internet : Yes/No

MR



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To

- 1.The District Collector,
Virudhunagar, Virudhunagar District.
- 2.The Revenue Tahsildar,
Rajapalayam, Virudhunagar District.



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M.S.RAMESH, J.
and
A.D.MARIA CLETE, J.

MR

ORDER MADE IN
W.P.(MD)No.1765 of 2025

23.01.2025