



W.P.(MD) No.4306 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 19.02.2025

CORAM:

THE HONOURABLE **MRS.JUSTICE J.NISHA BANU**

AND

THE HONOURABLE **MRS.JUSTICE S.SRIMATHY**

W.P.(MD)No.4306 of 2025

and

W.M.P.(MD)No.3080 of 2025

Mariyammal

... Petitioner

-Vs-

1.The District Collector / Monitoring Committee,
Tirunelveli, Tirunelveli District.

2.The Tahsildar,
Nanguneri, Tirunelveli District.

3.Revenue Inspector,
Kalakkadu, Tirunelveli District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to quash the impugned show cause notice issued by the 3rd respondent under Section 7 of the Chennai Act No.III of 1905, dated 21.01.2025 as illegal.

For Petitioner : Mr.C.Suresh Kannan

For Respondents : Mr.M.Sarangan,

Additional Government Pleader



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ORDER

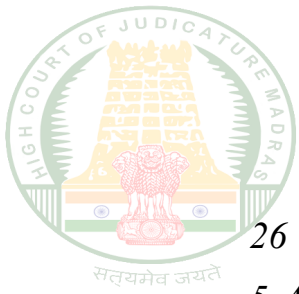
[Order of the Court was made by *J.NISHA BANU, J.*]

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

2.The show cause notice issued by the 3rd respondent under Section 7 of the Tamil Nadu Land Encroachment Act, 1905 (hereinafter referred to as 'the Act'), dated 21.01.2025 is under challenge in this Writ Petition on the ground that the 3rd respondent is not the competent authority to issue the impugned show cause notice.

3.At the outset, this Court is of the view that the impugned notice is only a show cause notice, seeking explanation from the petitioner, for which the petitioner has to give her reply. Instead of doing so, she has approached this Court. Further, the 3rd respondent is the competent authority under Section 7 of the Act, which is extracted hereunder:-

“7.Prior notice to person in occupation.- Before taking proceedings [under section 6] [Substituted by section 4 of the Tamil Nadu Land Encroachment (Amendment) Act, 1965 (Tamil Nadu Act



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26 of 1965) for the words, figure and letter 'under section 5, section 5-A or section 6' which were substituted for the words and figures 'under section 5 or section 6' by section 4 of, and the Second Schedule to, the Tamil Nadu (Transferred Territory) Extension of Laws Act, 1960 (Tamil Nadu Act 23 of 1960).], the Collector [or Tahsildar, [or Deputy Tahsildar or Revenue Inspector or any authorized officer or] [The words 'or Tahsildar, or Deputy Tahsildar, as the case may be' were inserted by section 2 of the Tamil Nadu Act VIII of 1914.] [any other officer specified by the State Government in this behalf (not being an authorised officer) (hereinafter referred to as the 'specified officer'))] [Substituted for the words 'any officer of the Highways Department, not below the rank of a Section Officer and not being an authorised officer' by section 2(i) of the Tamil Nadu Encroachment (Amendment) Act, 1975 (Tamil Nadu Act 20 of 1975).], as the case may be,] shall cause to be served on the person reputed to be in unauthorised occupation of land being The [the property of Government] [words 'Crown property' were substituted for the words 'the property of Government' by the Adaptation Order of 1937 and the words 'the property of Government' were substituted for 'Crown property' by the Adaptation (Amendment) Order of 1950.] 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.] [Substituted by section 4 of the Tamil Nadu Land Encroachment (Amendment) Act, 1965 (Tamil Nadu Act 26 of 1965) for the words, figure and letter 'under section 5, section 5-A or section 6' which

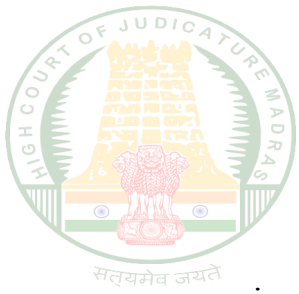


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were substituted for the words and figures 'under section 5 or section 6' by section 4 of, and the Second Schedule to, the Tamil Nadu (Transferred Territory) Extension of Laws Act, 1960 (Tamil Nadu Act 23 of 1960).]

Such notice shall be served in the manner prescribed in section 25 of the [Tamil Nadu] [Substituted for the words 'Madras' by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969, which came into force on the 14th January 1969.] Revenue Recovery Act, 1864 ([Tamil Nadu] [Substituted for the word 'Madras' by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969, which came into force on the 14th January 1969.] Act II of 1864), of or in such other manner as the [State Government] [The words 'Provincial Government' were substituted for the words 'Local Government' by the Adaptation Order, 1937 and the word 'State' was substituted for 'Provincial' by the Adaptation Order of 1950.] 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:] [Added by section 4 of the Tamil Nadu Land Encroachment (Amendment) Act, 1965 (Tamil Nadu Act 26 of 1965).]



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[Provided further that where the notice under this section is caused to be served by any Revenue Inspector or [any specified officer] [Added by section 4 of the Tamil Nadu Land Encroachment (Amendment) Act, 1965 (Tamil Nadu Act 26 of 1965).], 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,] [Substituted for the words 'or Deputy Tahsildar having jurisdiction' by section 2(ii)(b) of the Tamil Nadu Land Encroachment (Amendment) Act, 1975 (Tamil Nadu Act 20 of 1975).] 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 3 [Deputy Tahsildar or authorised officer having jurisdiction, as the case may be.] [Substituted for the words 'or Deputy Tahsildar having jurisdiction' by section 2(ii)(b) of the Tamil Nadu Land Encroachment (Amendment) Act, 1975 (Tamil Nadu Act 20 of 1975).]] ”

4. In view of the above, the petitioner is directed to give her reply to the impugned show cause notice and the respondents are directed to consider the same and thereafter, take necessary action under Section 6 of the Act in the manner known to law.



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WEB COPY 5. With the above direction, this Writ Petition is disposed of. No costs.

Consequently, connected miscellaneous petition is closed.

[J.N.B., J.] & [S.S.Y., J.]
19.02.2025

NCC : Yes / No
Index : Yes / No

Yuva

To

1. The District Collector / Monitoring Committee,
Tirunelveli, Tirunelveli District.
2. The Tahsildar,
Nanguneri, Tirunelveli District.
3. Revenue Inspector,
Kalakkadu, Tirunelveli District.



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