



W.P(MD)No.6847 of 2025

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.03.2025

CORAM:

**THE HONOURABLE MRS.JUSTICE J.NISHA BANU
and
THE HONOURABLE MRS.JUSTICE S.SRIMATHY**

**W.P(MD)No.6847 of 2025
and W.M.P(MD)Nos.5126 & 5128 of 2025**

D.Umasakthi

... Petitioner

vs.

1.The District Collector,
Office of the District Collector,
Virudhunagar District.

2.The Block Development Officer,
Sivakasi Panchayat Union,
Virudhunagar District.

3.The Tahsildar,
Office of the Tahsildar,
Sivakasi, Virudhunagar District.

4.V.Gayathiri

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned notice issued by the third respondent in his proceedings in Na.Ka.A.1/3-24/2024 dated 07.03.2025 and to quash the same and

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consequently directing the respondents, their men and agents not to interfere with the peaceful possession and enjoyment of the petitioner.

For Petitioner : Ms.P.Jessi Jeeva Priya
For RR 1 to 3 : Mr.M.Sarangan
Additional Government Pleader
For R – 4 : Mr.K.C.Ramalingam

ORDER

(Order of the Court was made by J. NISHA BANU, J.)

Challenging the impugned notice issued by the third respondent, dated 07.03.2025, under Section 6 of the Tamil Nadu Land Encroachment Act, 1905, the petitioner has filed the present Writ Petition.

2.According to the petitioner, the property comprised in Survey Nos. 438/36, 438/38, 438/39 and 438/44 situated at Naranapuram Village, Sivakasi Taluk, Virudhunagar District belonged to her. Since the house was in a dilapidated condition, the petitioner demolished the same and constructed a new house after appropriate approval from the competent authority in the year 2003. On the northern side of the house, the petitioner put up fence and also a gate for



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her safety. In these circumstances, one Gurusamy filed a suit against the petitioner and her husband for declaration and recovery of possession in O.S.No.339 of 2004, on the file of District Munsif Court, Sivakasi and the same was dismissed by a Judgment and Decree dated 14.12.2007. Aggrieved by the same, the legal representatives of the said Gurusamy has preferred an appeal in A.S.No.15 of 2008, on the file of the Sub Court, Sivakasi and the same was dismissed on 02.09.2008. In the meantime, the legal representatives of the said Gurusamy filed an appeal in S.A.(MD).No.990 of 2009, on the file of this Court and the same is pending. In these circumstances, the road on the northern side is very narrow, the petitioner decide to use the common pathway on the eastern side. In between the petitioner's house and the common pathway, there exist an Odai. In order to use the said Odai without any hindrance to the water flow, the petitioner put up a bridge across the Odai after proper inspection and guidance of the respondents 2, 3 and the Village Administration Officer. While being so, the petitioner received a notice dated 09.07.2024 from the second respondent directing her to remove the fence and constructions made in the suit property and the bridge in Survey No. 438/21 within a period of 15 days from the receipt of notice failing which it will be removed by the concerned authorities. Though no explanation was called for,



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the petitioner sent an explanation dated 15.07.2024 to the second respondent.

Aggrieved of the same, the petitioner filed a writ petition in W.P.(MD)No.19553 of 2024, on the file of this Court and the same was disposed on 14.08.2024.

Thereafter, the third respondent issued a notice under Section 7 of the Tamil Nadu Land Encroachment Act, 1905 dated 08.10.2024 to the petitioner in respect to the property in Virudhunagar District, Sivakasi Taluk, Naranapuram Village in Survey No.438/36 and 438/21. The petitioner sent a detailed explanation on 18.10.2024 for the above said notice requesting not to proceed further in this matter as the civil dispute is pending in S.A.(MD).No.990 of 2009, on the file of this Court. Subsequently, after receiving petitioner's explanation, third respondent issued a notice under Section 6 of the Tamil Nadu Land Encroachment Act, 1905 dated 17.12.2024 to the petitioner in respect of the property in Virudhunagar District, Sivakasi Taluk, Naranapuram Village in Survey No.438/36 alone. Again, the petitioner sent a detailed explanation on 20.12.2024 for the above said notice requesting not to proceed further in this matter as the civil dispute is pending in S.A.(MD).No.990 of 2009, on the file of this Court. In these circumstances, the third respondent has issued a notice dated 07.03.2025 that the encroachments made in the property mentioned in the notice under Section 6 of the Land



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Encroachment Act, 1905 dated 17.12.2024 will be removed on 13.03.2025 around 11.00 am. Hence, this Writ Petition.

3.It is the grievance of the petitioner that before issuing the impugned order, the third respondent failed to conduct a summary enquiry and consider the explanation submitted by the petitioner dated 18.10.2024 for the show cause notice issued under Section 7 of the Act.

4.The learned Additional Government Pleader appearing for the respondents 1 to 3 submits that on 18.10.2024 the third respondent issued a notice under Section 7 of the Tamil Nadu Land Encroachment Act, 1905. Since the reply filed by the petitioner has been received by the authority concerned belatedly, the third respondent issued the notice under Section 6 of the Tamil Nadu Land Encroachment Act, 1905, dated 07.03.2025. He further submitted that the impugned notice, dated 07.03.2025 issued by the third respondent may be set aside and after considering the reply filed by the petitioner, the third respondent will pass appropriate orders on merits and in accordance with law.



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5.In view of the above, the impugned notice issued by the third respondent dated 07.03.2025 is set aside and the third respondent is directed to consider the reply submitted by the petitioner, after giving sufficient opportunity of personal hearing to the petitioner, the fourth respondent and all other parties concerned, if any and pass appropriate orders on merits and in accordance with law within a period of twelve (12) weeks from the date of receipt of a copy of this order.

6.With the above direction, this Writ Petition is disposed of. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

[J.N.B.,J.] & [S.S.Y.,J.]
25.03.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes
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Office of the District Collector,
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J.NISHA BANU, J.
and
S.SRIMATHY, J.

ps

ORDER MADE IN
W.P(MD)No.6847 of 2025

DATED : 25.03.2025