

W.P.(MD) No.7674 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 23.04.2025

CORAM:

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

AND

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

W.P.(MD)No.7674 of 2025

and

W.M.P.(MD)No.5825 of 2025

Paramaraj

... Petitioner

Vs

1. The District Collector,
Theni District, Theni.

2. The Tahsildar,
Uthamapalayam Taluk,
Theni District.

3. The Block Development Officer,
Uthamapalayam, Theni District.

4. Alagarraja

... Respondents

PRAYER :- Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records pertaining to the impugned notice dated on 04.03.2025 passed by the 2nd respondent and quash the same as illegal.

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For Petitioner : Mr.V.G.Vallarasu Chezhiyan
For R1 to R3 : Mrs.D.Farjana Ghoushia
Special Government Pleader

ORDER

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

This Writ Petition is listed today (23.04.2025) under the caption 'for clarification'.

2.When the matter was taken up for admission on 20.03.2025, this Court has passed the following order:-

“The writ petition has been filed challenging the impugned order of the 1st respondent dated 10.03.2025, in and by which, it is alleged that the petitioner has put up a tin gate and encroached the Government poramboke land in S.No.870/41.

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

3.Since no adverse orders are going to be passed against the 4th respondent, notice to the 4th respondent is dispensed with.

4.The petitioner had purchased the property in S.No.59/1 through a registered sale deed dated 30.10.2017 from one Subburaj, wherein, he has constructed a house and residing there and also a running a petty shop therein. Since the officials had disturbed his peaceful possession, the petitioner filed OS No.215/2018 for



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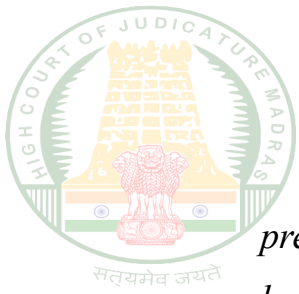
permanent injunction and the trial Court has granted an exparte order in favour of the petitioner on 18.11.2019.

5.While so, on the strength of the order passed by this Court, on 16.12.2024, in the writ petition filed by the 4th respondent in WP(MD) No.30485/2024, the Revenue Inspector had issued a notice under Section 7 of the Land Encroachment Act, 1905 (hereinafter referred to as 'the Act'). On receipt of the said explanation, the petitioner has also given his explanation on 20.02.2025. However, without considering the said explanation and the exparte order passed in favour of the petitioner, the impugned order has been passed by the respondents on 04.03.2025 directing him to remove the encroachment within 15 days. Challenging the same, the petitioner is before this Court.

6.The learned counsel for the petitioner submitted that notice under Section 7 of the Land Encroachment Act was issued to the petitioner on 12.02.2025, for which, the petitioner has given her explanation on 20.02.2025. Not considering the said explanation, now the impugned order of eviction has been passed. Hence, the petitioner is before this Court with this writ petition.

7.We have heard the learned counsel for the petitioner and the learned Additional Government Pleader for the respondents.

8.It is pertinent to note that as against the order under Section 6 of the Land Encroachment Act, when the petitioner has got an appeal remedy under Section 10 of the said Act to the District Collector, without availing such a remedy, the petitioner has straight away invoked Article 226 of the Constitution of India and filed the



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present writ petition. The petitioner can also seek for interim stay before the appellate authority under Section 10(b) of the Act and therefore, we are not inclined to entertain the writ petition. However while considering the appeal, the respondents shall take note of the ex parte order passed in civil suit.

9. Accordingly, the writ petition stands dismissed. No costs. Consequently connected Miscellaneous Petition is closed.”

3. However, before signing the order, it was brought to the notice of this Court that challenging the very same impugned eviction order the petitioner has filed an appeal before the appropriate authority. Therefore, this matter is listed today 'for clarification'.

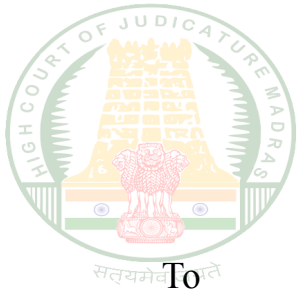
4. In view of the same, this Writ Petition is dismissed with liberty to the petitioner to raise all the points before the appellate authority, who in turn, after conducting enquiry and giving personal hearing to the petitioner, shall pass appropriate orders on the appeal filed by the petitioner. No costs. Consequently, connected miscellaneous petition is closed.

[J.N.B., J.] & [S.S.Y., J.]
23.04.2025

NCC : Yes / No
Index : Yes / No

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