



W.P.(MD)No.31963 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **18.11.2025**

CORAM:

THE HONOURABLE **DR.JUSTICE ANITA SUMANTH**
AND

THE HONOURABLE **MR.JUSTICE C.KUMARAPPAN**

W.P.(MD)No.31963 of 2025
& WMP(MD)Nos.25146 & 25148 of 2025

M.Ganapathi

... Petitioner

Vs.

The Tahsildar,
Sivakasi,
Virudhunagar District.

... Respondent

PRAYER:- Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records relating to the impugned notice of the respondent dated 14.10.2025 in Na.Ka.Aa. 1/3-113/2025 and quash the same.

For Petitioner : Mr.S.Ramasamy

For Respondent : Mr.S.P.Maharajan
Special Government Pleader



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ORDER

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(Order of the Court was made by **DR.ANITA SUMANTH, J.**)

Read this order in continuation of and in conjunction with order dated 10.11.2025, that reads as follows:

'The only ground, on which we entertain this writ petition is ground No.2 of the writ affidavit, where the petitioner states that no statutory notice under Section 7 of the Tamil Nadu Land Encroachment Act, 1905 ('Act') has been issued and hence, passing of the impugned order under Section 6 of the Act is bad in law.

2. Mr.S.P.Maharajan, learned Special Government Pleader, who accepts notice for the respondent, has written instructions in Na.Ka.Aa1/3-113/2025 dated 08.11.2025, where at Reference No.5, The Tahsildar, makes a reference to a notice under Section 7 of the Act dated 10.09.2025.

3. Hence, it all boils down as to whether such a notice has been issued under acknowledgment. A short counter on this aspect alone will be filed within a week from today, accompanied by proof of service of notice, if any, under Section 7 of the Act on the petitioner.

4. List on **18.11.2025**.

5. There shall be an order of status quo till then.'

2.A counter has been filed by the respondent today wherein at paragraphs 5, 6, 7 and 8, they have stated as follows:

'5.It is true that Tamil Nadu Land Encroachment Act, 1905 mandates for the issuance of Section 7 notice i.e., the show cause notice before the issuance of Section 6



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eviction notice. In view of the same, Section 7 notice dated 10/09/2025 was prepared dated however, the same was not served to the petitioner and the other encroacher on the said date. However instructions were given to the Government pleader to the effect that section 7 was served.

6. I tender my sincere apologies before this Hon'ble Court for not issuing the Section 7 notice on time i.e., before the issuance of section 6 eviction order, since the same was neither willful nor wanton, but only due to some administrative errors. Though the Section 7 notice was duly signed by me on 10.09.2025 itself, the same has not been posted to the encroachers. Since, I have signed it on the same day, I was under Bonafide impression that the said notice would have been served to the petitioner and only in furtherance to the same, Section 6 notice has been issued.

7. Only in view of the aforesaid circumstances, a written instruction was given to our Law Officer on 08.11.2025, specifying that the due process was followed before issuance of eviction notice. However, the same has come to light only after verifying the case file. It is absolutely due to communication gaps and administrative errors and nothing else. However, the fact of encroachment cannot be denied by the petitioner and he cannot take shelter on that ground.

8. It is submitted that I have utmost respect to this Hon'ble Court as well as to the Orders passed by this Hon'ble Court. It is further submitted that as a matter of fact, the land was surveyed and encroachments were identified and on the basis of the Surveyor report, I have also signed in the section 7 notice to be served to the encroachers, How ever due to inadvertence, the officials had not served the same to the encroachers. Inadvertently and under bonafide impression I had also issued section 6 order. In these circumstances, I pray this Hon'ble Court to direct the writ petitioner to treat the section 6 order as Section 7 Notice and the petitioner may also be permitted to



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give his explanation along with the records in possession of him if he denies encroachment. I earnestly request this Hon'ble Court to accept my apologies for the non Serving of section 7 Notice. To prove my bonafides, I am here with enclosing the section 7 notice signed by me along with this affidavit in the form of Typed set of papers.'

3.In light of the admitted position that no notice under Section 7 of the Tamil Nadu Land Encroachment Act, 1905 (in short 'Act') was issued and accepting the explanation putforth in the counter affidavit, we direct the petitioner to treat the impugned proceedings dated 14.10.2025 as a notice. Let the petitioner file his reply within a period of two weeks from today. He shall be heard thereafter and proceedings shall be taken to their logical conclusion in terms of the provisions of the Act by the respondent, within a further period of three weeks from the date of personal hearing.

4.With this, this Writ Petition is closed. No costs. Consequently, connected Miscellaneous Petitions are closed.

[A.S.M.J.] & [C.K.J.]
18.11.2025

Index :Yes/No
Internet :Yes
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To

The Tahsildar,
Sivakasi,
Virudhunagar District.



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DR.ANITA SUMANTH, J.
AND
C.KUMARAPPAN, J.

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