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W.P.(MD)NO.9275 OF 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.06.2026

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

AND

THE HON'BLE MS.JUSTICE R.POORNIMA

W.P.(MD)No.9275 of 2022

and

W.M.P.(MD)No.6657 of 2022

Roshna Begam

... Petitioner

Vs.

1. The District Collector,
District Collector's Office,
Trichy-1,
Trichy District.

2. The District Revenue Officer,
D.R.O.Office,
District Collector's Office,
Trichy-1,
Trichy District.

3. The Tahsildar,
Taluk Office,
Marungapuri,
Trichy District.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the third respondent proceedings made in final notice Na.Ka.A2/1196/2021 dated 22.04.2022, quash



the same and further direct the third respondent to follow the procedures contemplated under the Tamil Nadu Land Encroachment Act, 1905.

For Petitioner : Mr.R.Sundar

For Respondents : Mr.M.P.Senthil,
Government Advocate for R-1 to R-3.

* * *

ORDER

(Order of the Court was delivered by G.R.SWAMINATHAN, J.)

The petitioner challenges the impugned order dated 22.04.2022 issued by the Tahsildar, Marungapuri under Section 6 of the Tamil Nadu Land Encroachment Act, 1905.

2. The learned counsel appearing for the petitioner points out that the respondents had earlier issued notice under Section 6 of the Tamil Nadu Land Encroachment Act, 1905 on 28.10.2021. It was put to challenge in W.P.(MD)No.20859 of 2021. The writ petition was allowed on 23.11.2021 by the Hon'ble Division Bench in the following terms:-

“2. The writ petitioner had earlier filed W.P.(MD)No.19551 of 2021 and invited an order on



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01.11.2021, in which, it has been stated that though the notice issued under Section 7 of the Act, is a show cause notice, the petitioner therein, had filed an appeal before the District Collector and the Collector had also entertained the appeal and dismissed the same.

3. It is to be pointed out that after Section 7 notice, there should be an enquiry as per Section 6(2), which is summary in nature and the authorised officer is to pass appropriate order. When such order is passed, it is appealable under Section 10 of the Act, before the District Collector. In this case, the learned Government Advocate is unable to say whether an enquiry was conducted.

4. The dismissal of the appeal preferred against Section 7 notice by the District Collector, cannot be an impediment, for conducting enquiry under Section 6. It appears that Section 7 notice has already been issued, which was appealed against by the writ petitioner. Thereafter, an order under Section 6 should have been passed after enquiry. The impugned notice which is issued under Section 6, does not state that there was an enquiry before the said notice was issued.

5. Therefore, the 3rd respondent is directed to conduct an enquiry pursuant to Section 7 notice,



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which was issued earlier. After the enquiry by affording an opportunity of personal hearing to the petitioner, an order may be passed, on merits and if any such order is passed and if the petitioner is aggrieved, it is open to him to file appeal under Section 10. Therefore, we are of the opinion that the impugned notice issued under Section 6, is without enquiry and the same cannot be sustained and accordingly it is set aside.

6. In the light of the above discussion, the Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.”

It is pointed out by the learned counsel that the impugned order is a mere repetition of the earlier order and that the direction given in W.P.(MD)No.20859 of 2021 has not been followed.

3. This submission is undoubtedly formidable and attractive. No doubt, the third respondent has not followed the direction given by the Hon'ble Division Bench. The question that calls for consideration is whether the impugned order deserves to be interfered with on that ground.



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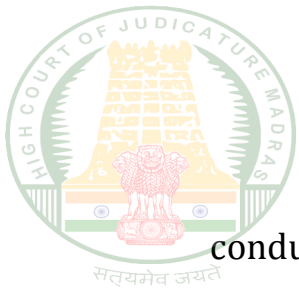
4. It is seen that as against the notice issued under Section 7 of the Act, the petitioner filed an appeal before the District Collector, Tiruchirapalli. Even though it is not maintainable, the District Collector dismissed the appeal vide order dated 18.08.2021 and called upon the Tahsildar, Marungapuri to remove the encroachment and take possession of the land by adopting due process of law. This order dated 18.08.2021 passed by the District Collector was put to challenge by the writ petitioner in W.P.(MD)No.19551 of 2021. No doubt, the Hon'ble Division Bench vide order dated 23.11.2021 in W.P.(MD)No.20859 of 2021 took note of the earlier dismissal order by the District Collector as well as the order dated 01.11.2021. But a careful reading of the order dated 01.11.2021 indicates that not only the writ petition was dismissed, but the Division Bench also recorded the submission of the Government Pleader that the land in question had already been allotted for the purpose of Fire Station and Staff Quarters for the employees of the Fire Service Department. The Hon'ble Division Bench had made a further observation that if an order is passed under Section 6 of the Act, then the aggrieved party can file an appeal under Section 10 of the Act.



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5. We are of the respectful view that the Hon'ble Division Bench which allowed W.P.(MD)No.20859 of 2021 had not taken note of the submission recorded in paragraph No.4 of the earlier order dated 01.11.2021. Be that as it may, in order to render substantial justice, we wanted to know if the writ petitioner has made out a substantial case for interference.

6. According to the writ petitioner, her husband purchased the land from one Ponnan in the year 1986. A copy of the sale deed dated 23.05.1986 has been produced before us. There is nothing on record to show that Ponnan had any title over the property in question. In fact, Ponnan filed an injunction suit against the writ petitioner's husband in O.S.No.191 of 2017 on the file of the Principal District Munsif, Manapparai. Ponnan had himself stated that the suit property is the Government tharisu poramboke and that he was only paying ' B ' memo penalty. If the petitioner had enclosed any patta or entry in the "A" Register indicating that it is not a Government poramboke, then we would have definitely interfered with. No doubt, we could have set aside the impugned order and remanded the matter to the file of the Tahsildar on the sole ground that the inquiry was not



conducted and personal hearing was not given. But that would be a case of useless formality. It is for this reason, we decline to interfere.

This writ petition stands dismissed.

7. We have taken such a view because the materials have been placed before us showing that the property has already been taken possession and that subdivision has also been effected following the allotment of the land in favour of the Fire Service Department. No costs. Consequently, connected miscellaneous petition is closed.

(G.R.SWAMINATHAN, J.) & (R.POORNIMA, J.)
01st June 2026

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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Trichy-1,
Trichy District.
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