

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.06.2015

CORAM:

THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI
AND
THE HON'BLE MR.JUSTICE M.VENUGOPAL

W.P. Nos. 14950 to 14953 of 2015

E.S. Bharathan ... Petitioner
(In WP No. 14950/2015)

V. Durai ... Petitioner
(In WP No. 14951/2015)

Tmt. Dhaya ... Petitioner
(In WP No. 14952/2015)

N. Elumalai ... Petitioner
(In WP No. 14953/2015)

vs.

1. The District Collector,
Kancheepuram District,
Kancheepuram.

2. The Tahsildar,
Alandur,
Nanganallur,
Chennai 600 061.

.... Respondents
(In WP Nos.14950 to 14953/2015)

Writ Petitions in WP No. 14950 of 2015 & 14951 of 2015 filed under Article 226 of the Constitution of India seeking a writ of Mandamus forbearing the respondents from anyway evicting the petitioner from his house situated at No.9, Kabaleeswarar Street Ganapathipuram Chrompet Chennai-44, and old No. 4 New No.10 Kabaleeswarar Street, Ganapathipuram, Chrompet, Chennai 44, respectively comprised in Survey No.250 T.S.No.45 Block No.40 Ward No.23 at Zamin Pallavaram, Alandur Taluk, Kancheepuram District pending disposal of the stay petition under Section 10-B of Tamilnadu Land Encroachment Act 1905 filed before the 1st respondent preferred in the appeal against order of the 2nd respondents proceedings in Na.Ka.No.129/2015/A2, dated 23.3.2015.

Writ Petitions in WP Nos. 14952 of 2015 & 14953 of 2015 filed

under Article 226 of the Constitution of India seeking a writ of Mandamus forbearing the respondents from anyway evicting the petitioner from his house situated at No.7, Kabaleeswarar Street Ganapathipuram Chrompet Chennai-44, and old No. 13, New No.11 Kabaleeswarar Street, Ganapathipuram, Chrompet, Chennai 44, respectively, comprised in Survey No.250 T.S.No.45 Block No.40 Ward No.23 at Zamin Pallavaram, Alandur Taluk, Kancheepuram District pending disposal of the stay petition under Section 10-B of Tamilnadu Land Encroachment Act 1905 filed before the 1st respondent preferred in the appeal against order of the 2nd respondents proceedings in Na.Ka.No.129/2015/A2, dated 23.3.2015.

For petitioners : Mr. S.Vijayakumar
For respondents : Mr.P.S.Sivashanmugasundaram
Spl. Govt. Pleader

COMMON ORDER

(Order of the Court was made by SATISH K. AGNIHOTRI, J.)

These writ petitions are filed seeking a writ of mandamus forbearing the respondents from, in any way, evicting the petitioners from their respective house, pending disposal of the stay petitions filed under Section 10-B of the of the Tamil Nadu Land Encroachment Act, 1905, (for short "the Act") before the first respondent in the appeals against the order of the second respondent dated 23.03.2015 passed under proceedings in Na.Ka.No.129/2015/A2.

2 Mr. P.S.Sivashanmugasundaram, learned Special Government Pleader, takes notice for the respondents. With the consent of the learned counsel for the petitioners and the learned Special Government Pleader appearing for the respondents, the writ petitions are taken up for final disposal.

3 It is the case of the petitioners that the second respondent has issued notice under Section 7 of the Tamil Nadu Land Encroachment Act, 1905 (for short "the Act") on 12.02.2015. They have submitted their reply to the said notice on 23.02.2015. But, the second respondent, without considering their reply dated 23.02.2015, has passed the order of eviction dated 23.03.2015.

4 From a perusal of the records, it is seen that the petitioners have preferred appeals under Section 10 of the Act before the first respondent on 27.04.2015 against the aforesaid order dated 23.03.2015, which are pending consideration. It is further seen that along with the said appeals, the petitioners have also filed applications for interim stay under Section 10-B of the Act.

5 Therefore, without going into the merits of the case, we are of the considered view that if an appeal is filed along with the

application for interim relief, the officers are well advised to consider the application for interim relief to avoid further complications at the earliest, preferably within a period of two weeks. The direction sought to the respondents not to take steps for evicting the petitioners from their respective houses cannot be granted in these writ petitions as the appellate authority is competent to grant interim relief on the applications made by them, along with the appeals.

6 Though a direction is not sought for disposal of the appeals preferred by the petitioners, however, in the facts and circumstances of the cases and also in the interest of justice, we deem it fit and proper to direct the first respondent to consider the petitioners' applications for interim relief as early as possible, preferably, within a period of two weeks from today and also to consider the petitioners' appeals within the statutory period prescribed under the provisions of law, on their own merits and in accordance with law. There shall be an order of status quo as obtained today, for a period of two weeks.

7 With the above directions, the writ petitions are disposed of. No costs. Connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar

True Copy

Sub Assistant Registrar

ra
To

1. The District Collector,
Kancheepuram District,
Kancheepuram.

2. The Tahsildar,
Alandur,
Nanganallur,
Chennai 600 061.

4 cc to Mr. K.Sakthivel, Advocate Sr.No.27293 to 27296/15

1 cc to Government Pleader.Sr.No.26881/2015

W.P. Nos. 14950 to 14953 of 2015

sv(co)pmk.22.6.2015