

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.06.2015

CORAM:

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

W.P. No.16379 of 2015 and M.P. No.1 of 2015

S. Srinivasan

Petitioner

Vs.

1. The Collector,
Salem District,
Salem.

2. The Tahsildar,
Gangavalli,
Salem District.

3. The Revenue Inspector,
Gangavalli,
Salem District.

Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the first respondent to pass orders on the stay petition filed under Section 10-B of the Tamil Nadu Land Encroachment Act, 1905, dated 25.05.2015, filed along with the appeal preferred by the petitioner under Section 10 of the Tamil Nadu Land Encroachment Act, dated 25.05.2015 against the order of eviction dated 07.04.2015 on the file of the second respondent and to stay the operation of the order of eviction passed by the second respondent dated 07.4.2015.

For petitioners

Mr. S. Doraisamy

For RR 1-3

Mr. P.S.Sivashanmugasundaram
Spl. Govt. Pleader

ORDER

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

This writ petitions is filed seeking a writ of mandamus directing the first respondent to pass orders on the stay petition dated 25.05.2015 filed under Section 10-B of the Tamil Nadu Land

Encroachment Act, 1905, (for short "the Act") along with the appeal dated 25.05.2015 preferred by the petitioner under Section 10 of the Act, against the order of eviction dated 07.04.2015 passed by the second respondent.

2 Mr. P.S.Sivashanmugasundaram, learned Special Government Pleader, takes notice for the respondents. With the consent of the learned counsel for the petitioner and the learned Special Government Pleader appearing for the respondents, the writ petition is taken up for final disposal at the admission stage itself.

3 It is the case of the petitioner that the second respondent has issued a notice under Section 7 of the Tamil Nadu Land Encroachment Act, 1905 (for short "the Act") on 17.03.2015. The petitioner has submitted his reply to the said notice on 09.04.2015. But, the second respondent, has passed the order of eviction dated 07.04.2015 before the period granted to the petitioner to file his explanation to the aforestated notice dated 17.03.2015.

4 From a perusal of the records, it is seen that the petitioner has preferred an appeal under Section 10 of the Act before the first respondent on 25.05.2015 against the aforesaid order dated 07.04.2015, which is pending consideration. It is further seen that along with the said appeal, the petitioner has also filed an application 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 petitioner from his property cannot be granted in this writ petition as the appellate authority is competent to grant interim relief on the application made by him, along with the appeal.

6 Though a direction is not sought for disposal of the appeals preferred by the petitioners, however, in the facts and circumstances of the case and also in the interest of justice, we deem it fit and proper to direct the first respondent to consider the petitioner's application for interim relief as early as possible, preferably, within a period of two weeks from today and also to consider the petitioner's appeal within the statutory period prescribed under the provisions of law, on its 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 petition is disposed of.
No costs. Connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

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To

1. The Collector,
Salem District,
Salem.
2. The Tahsildar,
Gangavalli,
Salem District.
3. The Revenue Inspector,
Gangavalli,
Salem District.

1 cc to Mr. S. Doraisamy , Advocate Sr.No.28021
1 cc to Government Pleader Sr.No.28069

svi(co)
pmk.19.6.2015

W.P. No.16379 of 2015

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