IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.07.2015

CORAM:

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

W.P. No.19643 of 2015
and
M.P. No.1 of 2015

Kamala ...Petitioner

Vs.

1. The Tahsildar,
   Chengalpattu Taluk,
   Kancheepuram District.

2. The Revenue Inspector,
   Kattankolathur,
   Chengalpattu Taluk,
   Kancheepuram District.

3. The Collector,
   Kancheepuram District. ...Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the third respondent to immediately pass orders on the stay petition dated 15.06.2015, in appeal dated 15.06.2015 filed by the petitioner before the 3rd respondent and to grant ad-interim stay till then.

For petitioners : Mr. Srinath Sridevan

For RR 1-3 : Mr. P.S.Sivashanmugasundaram
Spl. Govt. Pleader

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ORDER

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

This writ petitions is filed seeking a writ of mandamus directing the directing the third respondent to immediately pass orders on the stay petition dated 15.06.2015, in appeal dated 15.06.2015 filed by the petitioner before the 3rd respondent and to grant ad-interim stay till then.

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 5 of the Tamil Nadu Land Encroachment Act, 1905 (for short "the Act") on 22.04.2015. The petitioner has submitted her reply to the said notice on15.05.2015. But, the first respondent, has passed the order of eviction dated 27.05.2015 before the period granted to the petitioner to file her explanation to the aforestated notice dated 22.04.2015.

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 15.06.2015 against the aforesaid order dated 27.05.2015, 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 her property cannot be granted in this writ petition as the appellate authority is competent to grant interim relief on the application made by her, 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

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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 Petition is closed.

Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

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To

1. The Tahsildar,
   Chengalpattu Taluk,
   Kancheepuram District.

2. The Revenue Inspector,
   Kattankolathur,
   Chengalpattu Taluk,
   Kancheepuram District.

3. The Collector,
   Kancheepuram District.

1 CC to Mr. Srinath Sridevan, Advocate SR.No. 34005

1 CC to the Government Pleader, SR.No. 34183

W.P. No.19643 of 2015

SAI (CO)
PSI (13.07.2015)

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