

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.07.2015

CORAM:

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

W.P. No.23061 of 2015 and M.P. Nos.1 & 2 of 2015

A. Muthumari

Petitioner

Vs.

1 The District Collector  
Thiruvallur District  
Thiruvallur

2 The Tahsildar  
Madhavaram Taluk  
Thiruvallur District.

Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus, calling for the records relevant to the notice issued under Section 7 of the Tamil Nadu Land Encroachment Act, 1905 dated 01.07.2015 and consequential notice issued under Section 6 of the Tamil Nadu Land Encroachment Act, 1905 dated 20.07.2015 issued by the second respondent and quash the same as illegal, improper, unreasonable and arbitrary against the principles of natural justice and thereby, direct the second respondent to grant patta in respect of residential property situated in S.No.1, Plot No.62, Kurinchi Nagar, Puththagaram Village, Madhavaram Taluk, Thiruvallur District to an extent of 600 sq. ft. of land in the name of the petitioner herein immediately.

For petitioner Mr. B. Sudarapandiyan

For respondents Mr. N.Sakthivel, Government Advocate

ORDER

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

Mr.N.Sakthivel, learned Government Advocate, accepts notice for the respondents. With the consent of the learned counsel on either side, the writ petition is taken up for final disposal, at the admission stage itself.

2 The petitioner has come up with the instant writ petition, assailing the legality and validity of the notices dated 01.07.2015 and 20.07.2015 issued by the second respondent under Sections 7 and 6 respectively of the Tamil Nadu Land Encroachment Act, 1905 (for short "the Act").

3 It is beyond cavil that before issuance of notice under Section 6 of the Act, the petitioner was afforded an opportunity of hearing by notice dated 01.07.2015 issued under Section 7 of the Act. It is not clear as to whether representation, pursuant to the said notice, was made by the petitioner. It is further brought to our notice that after the notice under Section 6 of the Act was issued, the petitioner has preferred an appeal under Section 10 of the Act on 22.07.2015 and the same is pending consideration before the first respondent.

4 Given the fact situation, as afore-stated, no adjudication is required at this stage. However, the first respondent is directed to consider the petitioner's pending appeal within the statutory period. In the meantime, if an application seeking interim relief is filed by the petitioner, the same shall be considered and decided within a period of two weeks from today. It is made clear that for a period of two weeks, status-quo, as obtained today, in respect of the property in question, shall be maintained.

5 The petitioner has further sought a direction to the second respondent to consider her case for grant of patta in respect of her residential property. According to the petitioner, the land in question is a Lake Poramboke and as such, the State authorities are competent to consider her request for grant of patta as per G.O. Ms.No.854, Revenue Department dated 30.12.2006.

6 While considering the said issue, the authorities are at liberty to examine the fact as to whether the land in question is on the water channel, wherein, patta may not be granted.

7 At this stage, we do not wish to make any observation as the petitioner has not taken any steps earlier for grant of patta. However, if representation in this regard is pending consideration, the same may be considered independent of other proceedings and appropriate decision can be taken in accordance with the statutory provisions, as afore-stated.

8 The writ petition stands disposed of with the above directions and observations. Costs made easy. Connected Miscellaneous Petitions are closed.

Sd/-  
Asst.Registrar (CS IV )

/true copy/

Sub Asst. Registrar

cad  
To

1. The District Collector  
Thiruvallur District  
Thiruvallur
2. The Tahsildar  
Madhavaram Taluk  
Thiruvallur District.

+1 cc to Mr.M.V.Muralidaran Advocate sr.38895

+1 cc to Government Pleader sr.38923

rv(co)  
aa11/08/2015

W.P. No.23061 of 2015

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