

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 6/8/2015

C O R A M

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI
and
THE HON'BLE MR. JUSTICE K.K.SASIDHARAN

W.P. No.24152 of 2015

Palanivel

...Petitioner

Vs

The President
Kanagananthal
Thirukoilur Block
Thirukoilur Block
Villupuram District.

...Respondent

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus to call for the records relating to the Notice dated Nil signed by the President, Kanagananthal Panchayat, Thirukoilur Taluk, Villupuram District/respondent herein and quash the same and consequently direct the respondent not to interfere with the possession and enjoyment of the petitioner's property situated at 31/4B, natham patta land to an extent of 0.16 Sq. meter.

For petitioner : Mr.A.R.Nixon

For respondent : Mr.N.Sakthivel,
Government Advocate

सत्यमेव जयते

O R D E R

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

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

2. Questioning the legality of the undated notice issued under Section 6 of the Tamil Nadu Land Encroachment Act, 1905 (for short "The Act"), the petitioner has come up with this petition.

3. According to the learned counsel for the petitioner, the petitioner is a lawful owner and is in possession of the land in question, which is sought to be recovered from the petitioner by the respondent.

4. The learned counsel further submits that the notice was issued without specifying the date, so as to enable the petitioner to take necessary action.

5. On the other hand, the learned Government Advocate appearing for the respondent submits that the impugned notice is appealable under Section 10 of the Act. The instant petition has been filed without exhausting the statutory appellate remedy and as such, this petition be dismissed as not maintainable.

6. We have examined the pleadings and also perused the documents appended thereto.

7. Regard being had to the fact that the statutory remedy of appeal under Section 10 A of the Act is available and applicable to the petitioner, challenging the impugned notice issued under Section 6 of the Act, we are not inclined to entertain this petition. Thus, this petition is dismissed as not maintainable. However, liberty is reserved to the petitioner to take recourse to the Appellate jurisdiction, if so advised. No costs.

Sd/-

Assistant Registrar (CS-IV)

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

mvs.

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To

The President
Kanagananthal
Thirukoilur Block
Thirukoilur Block
Villupuram District.

1 CC to Mr.A.R.Nixon, Advocate SR.No. 41702

1 CC to the Government Pleader, SR.No. 40817

W.P. No.24152 of 2015

KJI (CO)
PSI (21.08.2015)



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