

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.08.2015

CORAM:

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI

AND

THE HON'BLE MR. JUSTICE K.K.SASIDHARAN

W.P. No.25763 of 2015 and M.P. Nos.1 - 3 of 2015

L. Maheswari

Petitioner

vs.

1 The District Collector
Thiruvallur District
at 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 affixed on the door of the petitioner without even mentioning the name of the occupant by namely the petitioner and quash the same as illegal, improper, unreasonable, arbitrary against the natural justice and thereby, direct the second respondent to grant patta in respect of residential property situated in S.No.1, Plot Nos.58 and 59, Kurinchi Nagar, Puththagaram Village, Madhavaram Taluk, Thiruvallur District to an extent of 1,200 sq. ft. of land in the name of the petitioner herein immediately.

For petitioner
For respondents

Mr. B. Sundarapandiyan
Mrs. A. Srijyanthi
Special Government Pleader

ORDER

(made by SATISH K. AGNIHOTRI, J.)

Mrs. A. Srijyanthi, learned Special Government Pleader, 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. Further, it is averred in the affidavit filed in support of the writ petition that challenging the notice under Section 6 of the Act, the petitioner has preferred an appeal under Section 10 of the Act on 22.07.2015 before the first respondent and the same is pending consideration. However, neither a copy of the appeal nor the acknowledgment for receipt of the said appeal is enclosed in the typed set of papers.

4 Given the fact situation, as afore-stated, no adjudication is required at this stage. However, as averred by the petitioner in her affidavit, if the appeal is pending consideration before the first respondent, the first respondent is directed to consider the same within the prescribed 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.Nos.854 and 579, Revenue Department dated 30.12.2006 and 03.10.2008 respectively.

6 At this stage, we do not wish to make any observation qua for grant of patta. However, if the petitioner has addressed any representation in this regard and the same is pending consideration, the same may be considered independent of the instant proceedings, strictly in accordance with law and on its own merits.

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

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1 The District Collector
Thiruvallur District
at Thiruvallur

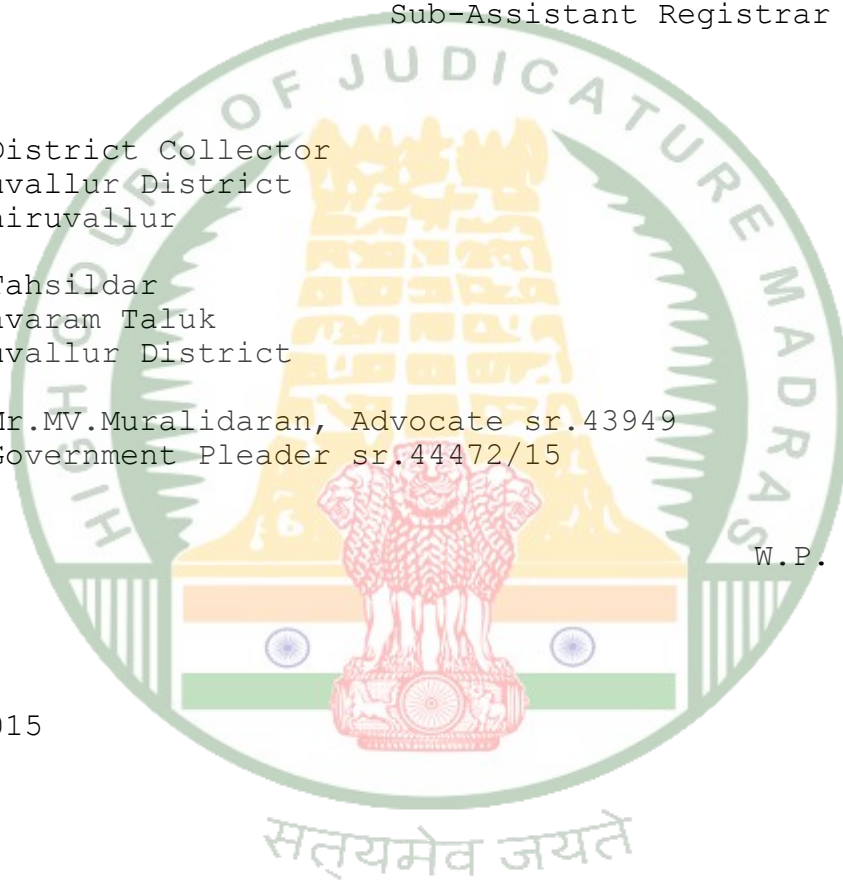
2 The Tahsildar
Madhavaram Taluk
Thiruvallur District

+1 cc to Mr.MV.Muralidaran, Advocate sr.43949

+1 cc to Government Pleader sr.44472/15

W.P. No.25763 of 2015

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