

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.08.2015

CORAM:

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

W.P. No.26134 of 2015
and
M.P. Nos.1 - 3 of 2015

J. Maheswaran

... 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 and quash the same as illegal, improper, unreasonable, arbitrary against natural justice and thereby direct the second respondent to grant patta in respect of residential property situated in S.No.1, Plot No.41, Kurinchi Nagar, Puththagaram Village, Madhavaram Taluk, Thiruvallur District to an extent of 760 sq. ft. of land in the name of the petitioner herein immediately.

For petitioner : Mr. B. Sundarapandiyan

For respondents : Mrs. A. Srijyanthi
Special Government Pleader

ORDER
(made by SATISH K. AGNIHOTRI, J.)

Mrs. A. Srijayanthi, 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. 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 from today, 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 his case for grant of patta in respect of his residential property. According to the petitioner, the land in question is classified as Eri Ulvai and as such, the State authorities are competent to consider his 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 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.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

cad

To

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

+1cc to Mr.M.V.Muralidaran, Advocate, S.R.No.44584
+1cc to the Government Pleader, S.R.No.44563

W.P. No.26134 of 2015

CA(CO)
CA(09/09/2015)



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