

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.08.2015

CORAM:

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

W.P. No.26917 of 2015 and M.P. Nos.1 & 2 of 2015

1 P. Sekar
2 V. Kamalakannan

Petitioners

vs.

The Tahsildar
Thiruvallur Taluk
Thiruvallur

Respondent

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus calling for the records of the respondent dated 10.08.2015 Chennapattinam 1905 Act III Under Section 6 (Tamil Nadu Act) and quash the same as illegal and unlawful, ultra vires and against the principles of natural justice and consequently forbear the respondent, his men, agents, servants, etc., from in any manner interfering with nor disturbing the peaceful possession, occupation and enjoyment over the immovable property comprised in Survey No.100 at No.28, Gerugampoondi Village, Thiruvallur Taluk and District having an extent of 1 acre or thereabouts.

For petitioners

Mr. T.S. Rajamohan

For respondent

Mrs. A. Srijayanthi

Special Government Pleader

ORDER

(made by SATISH K. AGNIHOTRI, J.)

Mrs. A. Srijayanthi, learned Special Government Pleader, accepts notice for the respondent. 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 This writ petition is filed assailing the legality and validity of the eviction notice issued by the respondent under Section 6 of the Chennapattinam Act, 1905 (for short "the Act") and to forbear the respondent from disturbing the petitioners' peaceful possession and enjoyment of their property in Survey No.100 at No.28,

Gerugampoondi Village, Thiruvallur Taluk and District.

3 The terse facts leading to the filing of the instant writ petition are that on the 21st ultimo, the petitioners were issued with a notice under Section 7 of the Act, directing them to vacate the property in question within 15 days, failing which, it was observed that all the movables, including standing crops, their yields and value of such movables shall be attached. Pursuant thereto, the petitioners submitted their reply on the 3rd instant. Eventually, on the 10th instant, the respondent issued notice under Section 6 of the Act, directing the petitioners to vacate the property in question within six days. Feeling aggrieved by the same, the present writ petition for the aforestated relief.

4 The learned counsel for the petitioners submits that the petitioners' reply, pursuant to the notice issued under Section 7 of the Act, was not considered properly and the impugned order has been passed in a casual and stereo-typed manner.

5 Be that as it may, it is not that the petitioners do not have any other remedy, except challenging the impugned order by filing this writ petition. The impugned order passed under Section 6 of the Act, is appealable under Section 10 of the Act. As such, there is no reason to bypass or sidestep the appeal jurisdiction to invoke the extra-ordinary jurisdiction of this Court.

6 We, accordingly, dismiss the writ petition, reserving liberty to the petitioners to take recourse to the appellate forum, if so advised. For a period of two weeks from today, there shall be an order of status quo as obtained today, in respect of the property in question, to enable the petitioners to prefer an appeal as against the impugned order, if so advised. Costs made easy. Connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

True Copy

Sub Assistant Registrar

cad

To

The Tahsildar
Thiruvallur Taluk
Thiruvallur.

1 cc to Mr.T.S. Rajamohan, Advocate Sr.No.45996

1 cc to Government Pleader.Sr.No.45230

W.P. No.26917 of 2015

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