

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.11.2015

CORAM

THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI
AND
THE HON'BLE DR. JUSTICE P. DEVADASS

W.P.No.35421 of 2015
and MP.NO.1 of 2015

Josekutty

Petitioner

Vs

- 1 The Member
Co-Ordinator Assistant Director Fisheries
District Level Committee, Villupuram.
- 2 The District Collector
Villupuram District.
- 3 The Forest Range Officer
Tindivanam Forest Range Office,
Villupuram District.
- 4 The Tahsildar
Office of the Tahsildar, Marakkanam
Villupuram District.
- 5 The Village Administrative
Officer No.221 Nadukuppam Village,
Tindivanam Taluk, Villupuram District.

Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus calling for the records of the 4th respondent i.e., the Tahsildar, Marakkanam, culminating in A2/852/2015 dated 21.8.2015 quash the same and further direct the respondents 3 to 5 not to take any coercive steps from evicting the petitioner from the shrimp farm in Kazhuveli Forest land in Survey No.618.1, 617.1, 616 and 614.4 an extent of 5.30 acres at Nadukuppam (East) Village, Marakkanam Taluk Villupuram District.

For petitioner : Mr. K. Balakrishnan

For respondents : Mr.P.S.Sivashanmugasundaram
Spl. Govt. Pleader -RR1,2,4,& 5

Mr.N.Inbanathan
Govt. Advocate(F) - R3

ORDER

(delivered by SATISH K. AGNIHOTRI, J.)

Mr.P.S.Sivashanmugasundaram, learned Special Government Pleader, accepts notice for the respondents 1, 2 4 and 5. Mr. N. Inbanathan, learned Government Advocate (Forest), accepts notice for the third 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. This writ petition is filed assailing the legality and validity of the eviction notice issued by the fourth respondent under Section 6 of the Tamil Nadu Land Encroachment Act, 1905 (for short "the Act") and to forbear the respondents from taking any coercive steps to evict the petitioner from the shrimp farm in Survey Nos.618.1, 617.1, 616, 614.4, an extent of 5.30 acres in Nadukuppam (East) Village, Marakkanam Taluk, Villupuram District.

3. The facts, in brief, leading to the filing of the instant writ petition are that on 24 July 2015, the petitioner was served with a notice under Section 7 of the Act, calling upon him to show cause within 21 days, as to why he should not be evicted from the property in question, the Government land in occupation by him, illegally and unauthorisedly. Pursuant thereto, the petitioner submitted his reply on 08 September, 2015. Meanwhile, on 21 August 2015, the fourth respondent issued notice under Section 6 of the Act, directing the petitioner to vacate the property in question within 15 days from the date of receipt of the said notice. Feeling aggrieved by the same, the present writ petition for the aforestated relief.

4. The case of the petitioner is that he was granted 21 days' time by the notice issued under Section 7 of the Act. However, without awaiting his reply, the impugned notice under Section 6 of the Act was passed on 21 August 2015.

5. Be that as it may, it is not that the petitioner does not have any other remedy, except assailing the impugned notice by filing this writ petition. The impugned notice passed under Section 6 of the Act, is appealable before the District Collector under Section 10 of the Act. Needless to state that under Section 10-B of the Act, there is also a provision for seeking interim relief. As such, there is no reason to bypass or sidestep the appeal jurisdiction to invoke

the extra-ordinary jurisdiction of this Court under Article 226 of the Constitution of India.

6. We, accordingly, dismiss the writ petition, reserving liberty to the petitioner 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 petitioner to prefer an appeal as against the impugned notice, if so advised. Costs made easy. Connected Miscellaneous Petition is closed.
ra

Sd/-
Assistant Registrar (C.O)

/True Copy/

Sub-Assistant Registrar

To

- 1 The Member
Coordinator/Assistant Director
Fisheries
District Level Committee, Villupuram
- 2 The District Collector
Villupuram District
- 3 The Forest Range Officer
Tindivanam Forest Range Office
Villupuram District
- 4 The Tahsildar
O/o the Tahsildar
Marakkanam
Villupuram District

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5 The Village Administrative Officer
No.221, Nadukuppam Village
Tindivanam Taluk
Villupuram District

+1 C.C. To MR.K.Balakrishnan, Advocate in SR.NO.60391

+1 C.C. To The Government Pleader in SR.NO.60294

W.P.No.35421 of 2015

GR(CO)
sd : 19/11/2015



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