

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 08-04-2015

CORAM:

THE HONOURABLE MR. JUSTICE SATISH K. AGNIHOTRI
AND
THE HONOURABLE MR. JUSTICE M. VENUGOPAL

W.P.No.4786 of 2015
and
M.P.No.1 of 2015

1. P.Krishnan
S/o.Poochi Gounder B.Pallipatty Village
Pappireddipatty Taluk
Dharmapuri District. ... Petitioner

Vs

1. The District Collector
Dharmapuri-636 705.
2. The Tahsildar
Pappireddipatty Taluk Dharmapuri District.
3. The Deputy Superintendent of Police
Harur Dharmapuri District. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for a writ of certiorari calling for the records realting to the Impugned order of Eviction dated 19.11.2013 under Section 6 of Tamil Nadu Land Encroachment Act 1905 passed by the 2nd respondent and consequently communication dated 13.1.2014 (signed on 23.1.2015) issued by the 2nd respondent to the 3rd respondent herein and quash the same as illegal and sustainable in law.

For appellants : Mr. D. Baskar
For respondents : Mr.P.S.Sivashanmughasundaram,
Spl.Govt. Pleader

ORDER

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

With consent of both the parties, the writ petition is taken up for final hearing.

2. The petitioner has come up with the instant petition, questioning the legality and validity of the order dated 19-11-2013 passed under Section 6 of the Tamil Nadu Land Encroachment Act('the Act' in short) by the second respondent. The petitioner would contend that he was not given effective opportunity of hearing and also a report was not called for, from the concerned Officer, which is required to be considered under provisions of law. Against the order passed under Section 6 of the Act, an appeal is maintainable under Section 10 of the Act and under Section 10(b) of the Act, the petitioner may also seek for an interim relief during the pendency of the appeal. It was contended earlier that the appeal has been preferred long back on 25-11-2013 before the Collector. No action has been taken on the pending appeal till date.

3. In response to our notice dated 24-02-2015, a counter affidavit has been filed by the second respondent. On the basis of the instructions received from the Office of the first respondent, it was clearly stated that no appeal as projected by the petitioner is pending before the appellate authority i.e., the first respondent. It was further observed that the eviction proceedings have been enforced and carried out on 19-02-2015 in the presence of the Block Development Officer, Pappireddipatty Taluk and B. Pallipatti, Panchayat President.

4. In view of that, we are not inclined to go into the details as to whether the appeal was filed or not. However, we grant one week time to the petitioner to prefer an appeal, if so advised against the impugned order, before the appropriate appellate authority.

5. It is made clear that for a period of one week, status quo in respect of the property, in question, shall be maintained.

6. The writ petition is disposed of, accordingly. No costs.
The connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

glp

To

1. The District Collector
Dharmapuri-636 705.
2. The Tahsildar
Pappireddipatty Taluk
Dharmapuri District.
3. The Deputy Superintendent of Police
Harur
Dharmapuri District

+1cc to M/s.R.Thamarai Selvan, Advocate, S.R.No.19382
+1cc to the Government Pleader, S.R.No.19406

W.P.No.4786 of 2015
and
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CA(CO)
CA(16/04/2015)

सत्यमेव जयते

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