

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.03.2015

CORAM:

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI
and
THE HON'BLE MR. JUSTICE M. VENUGOPAL

W.P. No.6417 of 2015 and M.P. No.1 of 2015

P. Palani

Petitioner

Vs.

1 The District Collector,
Office of the District Collector,
Kancheepuram District.

2. The Tahsildar,
Madurandhagam Taluk,
Kancheepuram District.

Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the first respondent to dispose of the appeal filed by the petitioner on 23.2.2015 pending on his file, expeditiously.

For petitioner Mr. R. Subramanian

For respondents Mr. P.S. Sivashanmugasundaram
Special Government Pleader

ORDER

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

Feeling aggrieved by the notice dated 12.01.2015 issued by the second respondent under Section 7 of the Land Encroachment Act, 1905 (for short "the Act"), the petitioner has preferred an appeal under Section 10 of the Act before the first respondent-Government, on 25.02.2015. Without waiting for a reasonable time, the petitioner has rushed to this Court with the instant writ petition on 06.03.2015, seeking a direction to the Appellate Authority to dispose of the appeal, expeditiously.

2 The petitioner has come up with the instant writ petition within 8 days from the date of preferring the appeal, seeking a mandamus which is normally issued against an authority for non-action or inaction or against wrong action. Certainly, this is not a case where issue of non-action, wrong action or inaction has arisen, as, the Appellate Authority has not been given an opportunity to take action, within the reasonable time. Thus, this writ petition for issuance of a writ of mandamus is not maintainable, at this stage.

3 We deprecate this practice of rushing to the Writ Court invoking the extra-ordinary jurisdiction of the High Court under Article 226 of the Constitution of India, without waiting for a decision within the prescribed statutory period. This practice is tantamount to abuse of judicial process.

4 It is also brought to our notice that an application for interim relief has also been filed under Section 10-B of the Act. We expect that the authorities will consider the application for interim relief, at the earliest, preferably within a period of two weeks, whenever an application for interim relief is filed along with the memorandum of appeal.

5 In view of the foregoing, status quo, in respect of the property in question, as obtained today, shall be maintained for a period of two weeks from today.

6 The writ petition stands disposed of, with the above observation. No costs. Connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

- 1 The District Collector,
Office of the District Collector,
Kancheepuram District.
2. The Tahsildar,
Madurandhagam Taluk,
Kancheepuram District.

+ 2 ccs to Mr.R. Subramanian, Advocate SR.13503
+ 1 cc Government Pleader Sr.13240

W.P. No.6417 of 2015

SK(CO)

EU 18.03.2015