

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.03.2016

CORAM:

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

W.P. No.10838 of 2016
and
W.M.P. No.9462 of 2016

M. Perumal

... Petitioner

Vs.

1. The District Collector
O/o District Collector
Kanchipuram, Kanchipuram District
2. The Tahsildar
Taluk Office at Madurandhagam
Madurandhagam Taluk, Kanchipuram District
3. The Revenue Inspector
Onampakkam Revenue Firka
Madurandhagam Taluk
Kanchipuram District
4. The Village Administrative Officer
190, Nallamur Revenue Panchayat
Madurandhagam Taluk,
Kanchipuram 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 impugned order of the eviction notice vide Na.Ka.16737/2015/B2 dated 30.10.2015 under Section 7 and 6 under III Land Encroachment Act, 1905, issued by the Tahsildar of Madurandhagam, Kanchipuram District, the Revenue Inspector, Onampakkam Revenue Firka, Madurandhagam Taluk, Kanchipuram District, the Village Administrative Officer, 190, Nallamur Revenue Panchayat, Madurandhagam Taluk, Kanchipuram District, the 2-4 respondents herein, quash the same and direct the respondents not to evict the Petitioner from the land and superstructure of extension about 0.55.0 ares vide survey no.219/4 situated in No.18, I Street, Kizlkaranai Village, Kattudevathur Village, Madurandhagam Taluk, Kanchipuram District

on the basis of the petitioner's last representation dated 10.03.2016.

For petitioner : Mr. Dalit Tiger C. Ponnusamy

For respondents : Mrs. T.T. Girija,
Government Advocate

ORDER

(delivered by SATISH K. AGNIHOTRI, J.)

Mrs. T.T. Girija, learned Government Advocate, accepts notice for the respondents. With consent, the writ petition is taken up for final disposal, at the admission stage itself.

2. This writ petition is filed calling in question the legality and validity of the notice dated 30 October 2015 issued under Section 7 of the Tamil Nadu Land Encroachment Act, 1905 (for brevity "the Act") and further, for a direction to the respondents not to evict the petitioner from the land and superstructure in question.

3. On the allegation that the petitioner has made an encroachment on temple poramboke, a notice dated 30 October 2015 under Section 7 of the Act was issued to him. According to the petitioner, he made a representation on 10 March 2016, pointing out the right acquired by him. Subsequently, no order/notice under Section 6 of the Act has been passed as yet. Thus, a direction be issued to the authorities to consider the petitioner's representation dated 10 March 2016 before passing order and taking consequential action, if any.

4. The learned Government Advocate appearing for the respondents submits that a notice under Section 6 of the Act has already been issued on 24th November, 2015, which is not assailed in this petition.

5. Be that as it may, on examination of the documents annexed herewith, it is noticed that the petitioner has not chosen to question the legality of the subsequent notice dated 24th November, 2015 issued under Section 6 of the Act, whereunder, he was called upon to vacate the scheduled encroached property within fifteen days. The petitioner, thereafter, has made a representation on 10th March 2016. Thus, at this stage, no direction can be issued to consider the representation in a fresh matter. However, the said representation since is addressed to the District Collector, who is the appellate authority under Section 10 of the Act, the said authority may treat the said representation as an appeal under

Section 10 of the Act and take a decision on merits and in accordance with law.

6. Further, we would like to strike a word of caution to the appellate authority that while considering the appeal, the appellate authority should abstain himself from passing orders in a casual and cryptic manner and instead, he is expected and obliged to advert to each and every objection or issue raised by the petitioner, before passing orders on the petitioner's appeal. Accordingly, the appellate authority is directed to examine the petitioner's appeal carefully, on merits and in accordance with law and then, take consequential decision, if need be.

7. The writ petition stands disposed of with the above directions. Costs made easy. Connected W.M.P. is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

cad/vvk

Sub Assistant Registrar

To

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+1cc to Mr.Dalit Tiger C. Ponnusamy, Advocate, S.R.No.18467

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GJ(CO)

CA(13/04/2016)