

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.01.2016

CORAM:

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

W.P. No.197 of 2016 and W.M.P. No.98 of 2016

P. Ramalingam

Petitioner

Vs.

- 1 The District Collector
Nagapattinam District
Nagapattinam
- 2 The Tahsildar
Kuttalam Taluk
Kuttalam, Nagapattinam District
- 3 The Executive Officer
Kuttalam Town Panchayat
Kuttalam, Nagapattinam District

Respondents

Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of mandamus forbearing the third respondent from evicting the petitioner and his family members from their dwelling house premises situated at New Door No.18/Old Door No.20-A, Chettiyarkoil North Street, Kuttalam Town, Kuttalam Taluk, Nagapattinam District, the land in ground of which comprised in Old Survey No.119D/30, New Survey No.734 of Kuttalam Village and Taluk, pursuant to the third respondent's eviction notice issued under Section 6 of the Tamil Nadu Land Encroachment Act, 1905, vide his proceedings Na.Ka.No.160/2015/A1 dated 23.12.2015, till such time of the petitioner's statutory appeal dated 26.12.2015 made to the first respondent is disposed of.

For petitioner Mr. S. Silambanan, Sr. Counsel
for Mr. S. Rajendiran

For RR 1 & 2 Mrs. A. Srijayanthi
Special Government Pleader

For R3 Mr. R. Ravichandran
Additional Government Pleader

O R D E R

(made by SATISH K. AGNIHOTRI, J.)

Mrs. A. Srijayanthi, learned Special Government Pleader, accepts notice for respondents 1 and 2. Mr. R. Ravichandran, learned Additional Government Pleader, 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 seeking a writ of mandamus forbearing the third respondent from, in any manner, evicting the petitioner and his family members from their dwelling house situated at New Door No.18/Old Door No.20-A, Chettiyarkoil Sannathi Street, Kuttalam Town, Kuttalam Taluk, Nagapattinam District, pursuant to the eviction notice dated 23 December 2015 issued by the third respondent under Section 6 of the Tamil Nadu Land Encroachment Act (for short "the Act"), till the petitioner's appeal dated 26 December 2015 under consideration before the first respondent is disposed of.

3 From a perusal of the records, it is seen that the third respondent has issued a notice under Section 6 of the Act on 23 December 2015. Thereagainst, the petitioner has preferred an appeal before the first respondent under Section 10 of the Act on 26 December 2015, which is pending consideration.

4 Without going into the merits of the case, we are of the considered view that if an appeal has been preferred by the petitioner as against the notice issued under Section 6 of the Act, the officers are under an obligation to consider and pass orders on the same within the statutory period prescribed under the provisions of law.

5 Accordingly, we direct the first respondent to consider and pass orders on the petitioner's appeal within the statutory period prescribed under the provisions of law, on its own merits and in accordance with law. It is made clear that for a period of two weeks from today, i.e., 06 January 2016, status quo as obtained today, in respect of the property in question, shall be maintained by both the parties.

6 With the above direction and observation, the writ petition is disposed of. No costs. Connected Miscellaneous Petition is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

- 1 The District Collector
Nagapattinam District
Nagapattinam
- 2 The Tahsildar
Kuttalam Taluk
Kuttalam, Nagapattinam District
- 3 The Executive Officer
Kuttalam Town Panchayat
Kuttalam, Nagapattinam District

+1 cc to Government pleader sr.573

+1 cc to M/S.S.Rajendiran Advocate sr.134

W.P. No.197 of 2016

tej (co)
aa07/01/2016

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