

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.08.2016

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

W.P.No.29061 of 2016

Golden Gates Matriculation Higher
Secondary School
Emerald Valley
Yercaud Foot Hills
Salem 636 008

.. Petitioner

-vs-

1. The District Collector
Collectorate, Salem District
Salem 636 001
2. The Revenue Divisional Officer
Collectorate, Salem District
Salem 636 001
3. The Tahsildar
Taluk Office, Cheri Road
Near Central Cooperative Bank
Salem 636 001
4. The Revenue Inspector
Taluk Office Cheri Road
Near Central Cooperative Bank
Salem 636 001

.. Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, calling for the records culminating in the notice dated 04.08.2016 issued by the fourth respondent, quash the same and forbear the respondents from in any manner proceeding further pursuant to the Notice dated 4.8.2016 issued by the fourth respondent under Section 7 of the Tamil Nadu Land Encroachment Act, 1905 including by way of repossession admeasuring an extent of about 8800 sq.ft., in Survey Nos.187/1, 188/1 in Kondappaniackenpatti Village, Salem District without first considering the representations of the petitioner dated 08.02.2012, 31.07.2013, 14.02.2014, 01.04.2015 and 18.05.2015.

For Petitioner :: Mr.T.Poornam

For Respondents:: Mr.P.S.Sivashanmugasundaram
Special Government Pleader

ORDER

(Order of the Court was delivered by HULUVADI G.RAMESH, J.)

The petitioner seeks for issuance of a writ of certiorarified mandamus, calling for the records culminating in the notice dated 04.08.2016 issued by the fourth respondent, quash the same and forbear the respondents from in any manner proceeding further pursuant to the notice dated 4.8.2016 issued by the fourth respondent under Section 7 of the Tamil Nadu Land Encroachment Act, 1905 including by way of repossession admeasuring an extent of about 8800 sq.ft., in Survey Nos.187/1, 188/1 in Kondappaniackenpatti Village, Salem District without first considering the representations of the petitioner dated 08.02.2012, 31.07.2013, 14.02.2014, 01.04.2015 and 18.05.2015.

2. Heard the learned counsel for the petitioner and the learned Special Government Pleader taking notice on behalf of the respondents.

3. It appears that the petitioner-School had already been served with a notice under Section 7 of the Tamil Nadu Land Encroachment Act as early as on 25.3.2015 alleging encroachment in Survey Nos.187/1, 187/2 and 188/1 in Kondappanaickenpatti Village, Salem District, for which the petitioner is said to have submitted a representation on 1.4.2015 referring to its earlier representations. However, without considering the representations, a notice under Section 6 of the Tamil Nadu Land Encroachment Act was purportedly issued on 13.5.2015 to the petitioner. Even though the petitioner has again submitted a representation on 18.5.2015 to regularise the holding of the lands in Survey Nos.187/1 and 188/1 in the best interest of thousands of students studying in the school and also volunteered to surrender the holding in Survey No.187/2 which has been developed, maintained and protected by the petitioner as a water body, no order has been passed by the respondents on the representations. While so, without application of mind, once again a notice under Section 7 of the Tamil Nadu Land Encroachment Act has been issued by the fourth respondent calling upon the petitioner to show cause why further proceedings should not be initiated under Section 6 of the Act.

4. Be that as it may, considering the various representations submitted by the petitioner to the notices issued earlier under Sections 7 and 6 of the Tamil Nadu Land Encroachment Act, the petitioner is given liberty to file an appeal under Section 10 of the Act before the District

Collector, Salem within a period of two weeks from the date of receipt of a copy of this order. Thereafter, it is for the District Collector, Salem to consider the appeal and to pass appropriate orders in accordance with law within a period of three months from the date of receipt of such appeal from the petitioner and all the contentions are left open to be urged by the petitioner before the first respondent/District Collector. Till then, status quo shall be maintained by the parties. The writ petition is disposed of accordingly. Consequently, W.M.P.No.25119 of 2016 is closed. No costs.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1. The District Collector
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4. The Revenue Inspector
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+1 cc to Mr.T.Poornam Advocate sr 47887
+1 cc to Government Pleader High Court Madras sr 48267

W.P.No.29061 of 2016

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