

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.9.2016

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.33095 of 2016
and
W.M.P.Nos.28575 & 28576 of 2016

R.Radhamani

... Petitioner

Versus

1. The District Collector,
Salem District, Salem.
2. The Revenue Divisional Officer,
Mettur, Salem District.
3. The Tahsildar,
Mettur, Salem District.
4. The Revenue Inspector,
Mettur, Salem District.

.... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorari calling for the records from the fourth respondent notice dated 6.9.2016 in petitioner property situated at Survey No.486/1 an total extend of land of 1200 sq, at Mettu Thanapatty, Andikarai Post, Konur Village, Mettur Taluk, Salem District to quash the same.

For petitioner : Mr.A.Esakkiappan

For Respondents : Mr.P.Karthikeyan,
Government Advocate

ORDER

(Order of the court was made by HULUVADI G.RAMESH, J.)

Heard the learned counsel appearing for the petitioner and Mr.P.Karthikeyan, learned Government Advocate, who is directed to take notice on behalf of the respondents.

2. The writ petition has been filed seeking issuance of a writ of certiorari calling for the records from the fourth

respondent in respect of the notice dated 6.9.2016 with regard to the petitioner's property situate at Survey No.486/1 of a total extent of land of 1200 sq, at Mettu Thanapatty, Andikarai Post, Konur Village, Mettur Taluk, Salem District and to quash the same.

3. According to the petitioner, she, alongwith her family members, had been residing in the property in question for the past thirty years and her repeated representations seeking patta were not considered by the third respondent while her neighbours' were granted patta and hence, she had filed a writ petition in W.P.No.16115 of 2016 and based on the direction of this court in the said writ petition, she had submitted a representation to the third respondent, in the Month of May 2016 and pending consideration of such a representation, the fourth had affixed a notice under section 7 of the Tamil Nadu Land Encroachment Act, 1905, on 4.8.2016 and despite the explanation offered by the petitioner, the fourth respondent had affixed the notice under section 6 of the said Act. Aggrieved against the same and apprehending coercive steps, the present writ petition has been filed.

4. Learned counsel appearing for the petitioner would submit that the Revenue Inspector has no power to issue such a notice and accordingly, sought to quash the same.

5. On the other hand, the learned Government Advocate appearing for the respondents, while interpreting section 6 of the Tamil Nadu Land Encroachment Act, 1905, would submit that the District Collector or any other person authorised by him has got power to issue notice and take a decision in accordance with law and such being the case, there is no flaw in the decision taken by the Tahsildar or any officer subordinate to him.

6. Be that as it may, the impugned notice is appealable under section 10A of the said Act and therefore, it is for the petitioner to file an appeal before the District Collector, within a period of 15 days from the date of receipt of copy of this order and on such filing, the District Collector shall consider the same by affording an opportunity of hearing to the petitioner and pass orders within a period of two months thereafter. Till then, status quo shall be maintained by the parties. The writ petition is disposed of accordingly. No costs. The connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

ssk

To:

1. The District Collector,
Salem District, Salem.
2. The Revenue Divisional Officer,
Mettur, Salem District.
3. The Tahsildar,
Mettur, Salem District.
4. The Revenue Inspector,
Mettur, Salem District.

+1cc to Mr.A.Esakkiappan, Advocate, S.R.No.53415

+1cc to the Government Pleader, S.R.No.53801

W.P.No.33095 of 2016

SAI (CO)
CA(18/10/2016)



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