

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.01.2016

CORAM:

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

W.P. No.592 of 2016 and W.M.P. No.429 of 2016

R. Ramakrishnan

...Petitioner

Vs.

1 The Collector
Dharmapuri District
Dharmapuri

2 The Tahsildar
Harur
Dharmapuri District

...Respondents

Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of mandamus directing the first respondent to pass orders on the stay application filed under Section 10-B of the Tamil Nadu Land Encroachment Act filed along with the appeal preferred by the petitioner under Section 10 of the Tamil Nadu Land Encroachment Act dated 20.10.2015 and 23.12.2015 against the order of eviction dated 06.10.2015.

For petitioner Mr. S. Doraisamy

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

O R D E R

(delivered by SATISH K. AGNIHOTRI, J.)

Mr. P.S. Sivashanmugasundaram, learned Special Government Pleader, accepts notice for the respondents. 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 directing the first respondent to pass orders on the stay application filed by the petitioner before the first respondent under Section 10-B of the Tamil Nadu Land Encroachment Act, 1905 (for short "the Act") along with appeals dated 20 October 2015 and 23 December 2015 filed under Section 10 of the Act, against

the order of eviction dated 06 October 2015 passed by the second respondent.

3 From a perusal of the records, it is seen that the second respondent has issued a notice under Section 6 of the Act on 06 October 2015. Thereagainst, the petitioner has preferred an appeal before the first respondent under Section 10 of the Act on 20 October 2015 together with an application for interim stay under Section 10-B of the Act. Finding no response, the petitioner has filed yet another appeal dated 23 December 2015 against the notice issued under Section 6 of the Act, together with an application for interim stay. Feeling aggrieved by the inaction on the part of the first respondent in passing orders on his stay application, the petitioner has come up with the instant writ petition seeking the aforestated relief.

4 Without going into the merits of the case, we are of the considered view that if a stay application, as aforestated, is filed along with an appeal, the officers are well advised to consider the stay application, at the earliest, preferably, within a period of two weeks, to avoid further complications.

5 Accordingly, we direct the first respondent to consider and pass orders on the petitioner's stay application dated 23 December 2015, within a period of two weeks. It is made clear that for a period of two weeks, status quo as obtained today, in respect of the property in question, shall be maintained by both the parties. It is also expected that the first respondent would consider and pass orders on the petitioner's appeal dated 23 December 2015 on its own merits and in accordance with law within the statutory period prescribed under the provisions of law.

6 With the above direction and observation, the writ petition is disposed of. No costs. Connected W.M.P. is closed.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

To

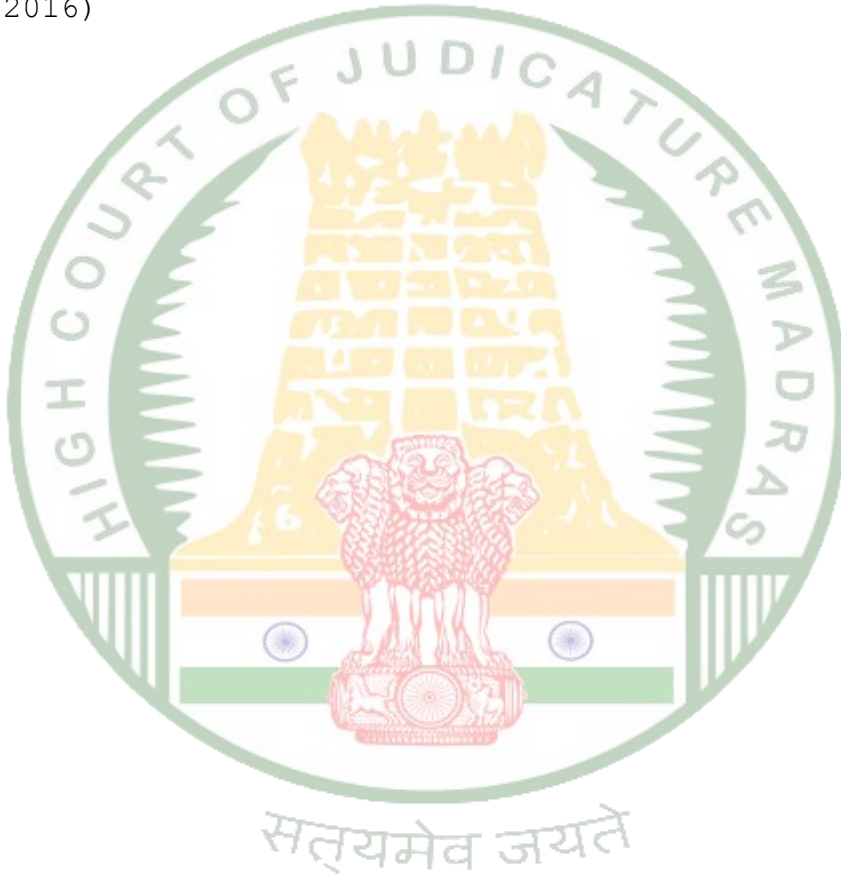
- 1 The Collector,
Dharmapuri District,
Dharmapuri.

2 The Tahsildar,
Harur,
Dharmapuri District.

+1cc to Mr.S.Doraisamy, Advocate, S.R.No.2085
+1cc to the Government Pleader, S.R.No.2333

W.P. No.592 of 2016

pur (CO)
srg (27/01/2016)



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