

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.03.2016

CORAM

THE HON'BLE MR.JUSTICE M.VENUGOPAL
AND
THE HON'BLE MR. JUSTICE T.MATHIVANAN

W.P.No. 8171 of 2016
and
W.M.P.No.7260 of 2016

Velumani .. Petitioner

Vs.

1.The District Collector,
Erode District, Erode.

2.The Assistant Engineer,
Water Resources Department,
Irrigation Section,
Modakurichi, Erode District. ... Respondent

This writ petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus forbearing the respondents from demolishing the petitioner's house situated in S.No.276/3, Punjaikalamangalam Village, Erode Taluk and District, pending disposal of the statutory appeal filed under Section 10 of Land Encroachment Act dated 10.02.2016 before the first respondent.

For Petitioner : Mr.C.Prakasam

For Respondents: Mr.G.Saibaba,
Govt. Advocate

ORDER

(Order of the Court was made by M. VENUGOPAL, J.)

Heard both sides.

2.By consent, the main writ petition is taken up for final disposal at the admission stage itself.

3. According to the petitioner, this Court, on an earlier occasion, when he moved W.P. No.5657 of 2016, on 22.02.2016 at paragraphs 3 and 4, had observed the following and disposed of the writ petition:

"3. The learned counsel for the petitioner submits that as against the notice issued under Section 6 of the Act, the petitioner has preferred an appeal before the District Collector under Section 10 of the Act on 10 February 2016 along with an application for interim stay under the provisions of Section 10-B, *ibid.* Till date, despite a request given, even the application for interim relief has not been considered by the first respondent. The authorities may demolish the structure at any point of time. Thus, a direction be issued to the appellate authority, viz., the District Collector, Erode, the first respondent, to consider, at least, the application for interim relief, at the earliest.

4. Considering the limited scope of the relief sought by the petitioner, without going into the merits of the case, we direct the first respondent to consider the petitioner's application for interim relief within a period of one week and decide the appeal within the statutory period prescribed under the provisions of law. It is made clear that status quo as obtained today in respect of the property in question shall be maintained for a period of one week."

4. At this stage, learned counsel for the petitioner brings it to the notice of this Court that the petitioner's application seeking for interim relief is still pending and not yet disposed of by the first respondent/District Collector, Erode. As such, there is violation of the order passed by this Court in the writ petition.

5. In view of the fact that this Court in W.P.No.5657 of 2016 on 22.02.2016 (filed by the petitioner) had directed the first respondent/District Collector, Erode to consider the petitioner's application for interim relief within a period of one week and decide the appeal within the statutory period prescribed under the provisions of the Act and the same being not adhered to by the first respondent, this Court, on the basis of equity, fair play, good conscience and even as a matter of prudence, directs the first respondent/District Collector, Erode to take up the interim relief application (filed by the petitioner) in all seriousness and in right earnest, within a week from the date of receipt of a copy of this order and thereafter, to dispose of the same within a week in the manner known to Law and in accordance with Law (ofcourse, after

providing necessary opportunity to the petitioner by adhering to the principles of natural justice). It is needless for this Court to point out that the first respondent/District Collector, Erode is to pass a reasoned speaking order on merits (detailing the process of reasoning in qualitative and quantitative terms) and in a dispassionate manner and to communicate a copy of the said order to the petitioner. It is also primordial duty on the part of the first respondent/District Collector, Erode, to dispose of the appeal preferred by the petitioner within the statutory period and to follow the order passed by this Court in true letter and spirit without any deviation whatsoever. Till such time, the status quo as it exists today in regard to the property in question shall be maintained.

6. With the above said observations and directions, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

1. The District Collector,
Erode District, Erode.

2. The Assistant Engineer,
Water Resources Department,
Irrigation Section,
Modakurichi, Erode District.

+ 1 cc to Mr.C. Prakasam, Advocate Sr.14074

W.P.No.8171 of 2016

JSV(CO)
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