



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.09.2016

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
and
THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P (MD) .No.17859 of 2016
and
W.M.P. (MD) .Nos.12882 and 12883 of 2016

M.T.Sankar

... Petitioner

Vs

1.The Revenue Divisional Officer,
Tirunelveli Region, Tirunelveli.

2.The Tashildar,
Thiruvenkatam Taluk,
Thiruvenkatam,
Tirunelveli District.

3.The Revenue Inspector,
Thirvenkatam Pirka,
Thiruvenkatam,
Tirunelveli District.

4.S.Thangasamy

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for the records relating to the notice affixed under Section 7 of the Tamil Nadu Land Encroachment Act, 1905 dated 29.08.2016 and quash the same.

For Petitioner :Mr.S.Meenakshi Sundaram

For R.1 to 3 :Mr.A.Muthukaruppan

Additional Government Pleader

ORDER

[Order of the Court was made by M.SATHYANARAYANAN, J.]



2. The first respondent, acting on the application submitted by one Janakiraman has cancelled the joint patta No.1556 vide his order dated 10.08.2016 in respect of S.Nos.1439/21 and 1440/18, Thiruvenkadam Taluk and Thiruvenkadam Village, Tirunelveli District and restored the place as vacant site as found in the adangal. It is also intimated in the order that if the persons aggrieved, a revision would lie before the District Revenue Officer, Tirunelveli District. Accordingly, the petitioner has also filed a revision before the said official on 29.08.2016.

3. Learned Counsel for the petitioner would submit that admittedly in the case on hand, the Land Encroachment Act, 1905 cannot be invoked. In support of his contention, he placed reliance upon G.O.Ms.No.540, Revenue [LD6(2)] Department, dated 04.12.2014, and submitted that though the revision has been entertained, it is yet to be disposed of by the authority concerned. In all fairness, the official respondents ought to have waited till the passing of the final orders in the said revision. Since coercive action is taken by the official respondents to dispossess the petitioner, he came forward with this Writ Petition.

4. This Court heard the submissions of the learned Counsel for the petitioner. Mr.A.Muthukaruppan, learned Government Advocate accepts notice for the official respondents. Since this Court is not going to pass any adverse order against the fourth respondent herein, notice is not issued to him.

5. Though the petitioner has prayed for a larger relief in this Writ Petition in the light of the facts and circumstances and without going into the merits of the matter, we permit the petitioner to file an application for stay before the District Revenue Officer, Tirunelveli, within a period of two weeks from the date of receipt of a copy of this order. If the revision is otherwise in order, the said authority is directed to entertain the same and dispose of the same within two weeks from the date of receipt of the application for stay preferred by the petitioner, and pass appropriate orders in accordance with law, after putting notice to the fourth respondent and expedite the disposal of the main revision case. While preferring the revision before the District Revenue Officer, Tirunelveli District, the petitioner is directed to enclose a copy of this order for proper follow-up. Till such time, the third respondent shall defer further decision in terms of Section 7 of the Tamil Nadu Land Encroachment Act 1905 dated 29.08.2016. It is made clear that till the disposal of the main revision petition, the petitioner shall not create any third party interest in respect of the property in question.



6. This Writ Petition is disposed of, accordingly. No costs. Consequently, the connected miscellaneous petitions are closed.

WEB COPY

Sd/-

Assistant Registrar (RTI)

/True Copy/

Sub Assistant Registrar

To:

- 1.The Revenue Divisional Officer,
Tirunelveli Region, Tirunelveli.
- 2.The Tashildar,
Thiruvankattam Taluk,
Thiruvankattam,
Tirunelveli District.
- 3.The Revenue Inspector,
Thiruvankattam Pirka,
Thiruvankattam,
Tirunelveli District.

Copy To:-

1. Mr.V.Janakiraman,
S/o.Verasamy Naicker,
Alamanayakarpatti,
A.Karisalkulam,
Thiruvankattam Taluk,
Tirunelveli District.

2. The District Revenue Officer,
Tirunelveli.

+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 53975
+ 1 CC TO Mr.S.MEENAKSHI SUNDARAM, ADVOCATE IN SR No. 53556

SSM

TE/GSV-PM : 27/09/2016 : 3P/8C

W.P (MD) .No.17859 of 2016
and

W.M.P. (MD) .Nos.12882 and 12883 of 2016
20.09.2016