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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 29.04.2016

CORAM:

THE HONOURABLE MR.JUSTICE S.MANIKUMAR
and
THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P.(MD)Nos.8979 and 8980 of 2016
and
WMP(MD)Nos.7154 and 7155 of 2016

Sri Arulmigu Kamatchi Amman Thirukkivil,
Rep. by its President, Executive Committee,
Thondamanginam, Kadavur Taluk,
Karur District.

.. Petitioner in W.P.(MD)No.8979 of 2016

Sri Arulmigu Kannayee Amman Thirukkivil,
Rep. by its President, Executive Committee,
Thondamanginam, Kadavur Taluk,
Karur District.

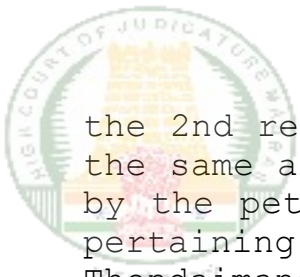
.. Petitioner in W.P.(MD)No.8980 of 2016

Vs.

- 1.The District Collector,
Karur District, Karur.
- 2.The District Revenue Officer,
Karur District, Karur.
- 3.The Revenue Divisional Officer,
Kulithalai, Karur District.
- 4.The Tahsildar,
Kadavur Taluk Office at
Tharagampatti,
Karur District.
- 5.The Revenue Inspector,
Mylampatty, Kadavur Taluk,
Karur District.
- 6.Tho.Ka.Manickam, State Secretary,
Indian Human Rights Party,
Thondamanginam, Kadavur Taluk,
Kadavur District.

.. Respondent in both the W.Ps.

<https://hccs.myscourts.gov.in/services/COMMON-PRAYER> Writ petitions are filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order passed by



the 2nd respondent in Na.Ka.Aa1/689/2015, dated 05.04.2016, quash the same and direct the 1st respondent to take up the appeal filed by the petitioner under Sec.10 of Tamilnadu Land Encroachment Act pertaining to the removal of encroachment in S.No.420/21 of Thondaimanginam Village, Kadavur Taluk, Karur District.

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For petitioner in
both W.Ps. : Mr.M.Saravanan

For Respondents
in both W.Ps. : Mr.S.Kumar
Additional Government Pleader

COMMON ORDER

(Order of this Court was made by S.MANIKUMAR, J.)

Material on record discloses that when proceedings of the Tahsildar, Kadavur Taluk Office, Karur District, in Na.Ka.No.A1/5783/2015, dated 18.01.2016, issued under the Tamil Nadu Land Encroachment Act, was impugned in W.P.(MD)No.2747 of 2016, going through the statutory provision under Section 10 of the Act, which provides an appeal to the District Collector, we declined to quash the order passed under Section 6 of the said Act and granted liberty to the petitioner to prefer an statutory appeal. We also made it clear that if any such appeal is filed, the appellate authority shall consider the same and pass appropriate orders in accordance with law subject to Section 15 of the Limitation Act. Pursuant to the directions issued, the petitioner is stated to have filed an appeal to the District Collector, Karur District, the appellate authority. However, vide proceedings in Na.Ka.Aa1/689/2015, dated 05.04.2016, the District Revenue Officer, Karur District has directed the petitioner to prefer an appeal to the District Level Committee, in terms of G.O.Ms.No.540, Revenue (LD6(2)) Department, dated 04.12.2014. The said order is impugned in the present writ petitions on the ground that it is without jurisdiction.

2.Considering the error apparent on the face of record in issuing impugned communication, dated 05.04.2016, directing the petitioner to approach the District Level Committee, this Court put Mr.S.Kumar, learned Additional Government Pleader, on notice, to explain as to the correctness of the order. Attention of G.O.Ms.No.540, Revenue (LD6(2)) Department, dated 04.12.2014, is also invited to the learned Additional Government Pleader that the said Government Order has been issued only to ventilate the grievance of the person, who alleges encroachment and that the said Government Order would not override the provisions of the Tamilnadu Land Encroachment Act, which provides for a remedy by way of an appeal under Section 10 of the Act, to the District Collector.



3. Going through the impugned communication, dated 05.04.2016 and G.O.Ms.No.540, Revenue (LD6(2)) Department, dated 04.12.2014, Mr.S.Kumar, learned Additional Government Pleader submitted that the impugned order suffers from an apparent error and therefore, the order is to be set aside.

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4. Submission of the State Government is placed on record. In view of the above, we are not inclined to dwell into the other aspects. Accordingly, the impugned order is set aside. The District Collector, Karur District, the appellate authority, is directed to take the appeal stated to have been filed on 16.02.2015 on file and pass appropriate orders. If the appellate authority is not in a position to dispose of the appeal for any reason, applications if any filed to stay the order passed by the Tahsildar, Kadavur Taluk Office, Karur District, in Na.Ka.No.A1/5783/2015, dated 18.01.2016, the same shall be taken up and order be passed at the earliest.

5. The writ petitions are allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar

/True copy/

Sub Assistant Registrar

To

1. The District Collector,
Karur District, Karur.
2. The District Revenue Officer,
Karur District, Karur.
3. The Revenue Divisional Officer,
Kulithalai, Karur District.
4. The Tahsildar,
Kadavur Taluk Office at
Tharagampatti, Karur District.
5. The Revenue Inspector,
Mylampatty,
Kadavur Taluk,
Karur District.



6.Tho.Ka.Manickam,
State Secretary,
Indian Human Rights Party,
Thondamanginam, Kadavur Taluk,
Kadavur District.

+2cc to Mr.R.Subramanian, Advocate SR.No.25659
+1cc to special Government Pleader SR.No.25778

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