

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 18.08.2017

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE N.SESHASAYEE

WP.No.4859/2017 & WMP.No.5069/2017

C.Shanmugam

..

Petitioner

Versus

1.The District Collector
Tiruvannamalai District,
Tiruvannamalai.

2.The District Revenue Officer
Tiruvannamalai District
Tiruvannamalai.

3.The Tahsildar
Tahsildar Office
Kilpennathur Taluk,
Tiruvannamalai District.

4.The Village Administrative Officer
Annadampallam Village & Post,
Kilpenathur [TK],
Tiruvannamalai District.

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Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India
praying for issuance of a writ of certiorari calling for the records pertaining

to the impugned order of the 3rd respondent herein passed in Na.Ka.A1/6043/2016 dated 30.01.2017 and quash the same.

For Petitioner : Mr.K.Gangadaran

For R1 to 4 : Mr.A.N.Thambidurai, Spl.GP

ORDER

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

By consent, the writ petition is taken up for final disposal.

2 The petitioner in the affidavit filed in support of this writ petition would aver among other things, that the petitioner is a resident of Door No.539, Anna Nagar, Annadampallam Post, Kilpenathur Taluk, Tiruvannamalai District, and the superstructure put up by him is also subjected to statutory levies and he has also been issued with Ration Card, Voter ID Card, Aadhar Card etc. The petitioner would further aver that to his shock and surprise, he has been issued with the impugned notice under section 6 of the Tamil Nadu Land Encroachment Act, 1905, [in short "the Act"] dated 30.01.2017 and challenging the legality of the same, the petitioner came forward to file the present writ petition.

3 The learned counsel for the petitioner would submit that

before issuing notice under section 6 of the Act, Notice under section 7 of the Act has not been issued and as such, the impugned notice is liable to be set aside.

4 *Per contra*, Mr.A.N.Thambidurai, learned Special Government Pleader appearing for the respondents would contend that since the petitioner is having an effective alternate remedy under section 10 of the Act with a provision for stay under section 10-B of the Act, the writ petition is not maintainable.

5 This Court has considered the rival submissions and also perused the materials placed before it.

6 Though the petitioner prays for a larger relief, in the light of the fact that the petitioner is having effective alternate remedy with a provision to get interim order pending disposal of the appeal, this Court is of the view that the writ petition is not maintainable.

7 However, the petitioner is at liberty to file an appeal under section 10 of the Tamil Nadu Encroachment Act, 1905, before the Appellate Authority, within a period of four weeks from the date of receipt of a copy of this order and till such time, the respondents shall defer further decision in terms of the impugned notice dated 30.01.2017. The petitioner is also at liberty to file a petition for stay under section 10-B of the Act pending disposal of the appeal. The Appellate Authority shall entertain the appeal along with the petition for stay if the papers are otherwise in order and thereafter, give a disposal on merits and in accordance with law within a further period of eight weeks thereafter and communicate the decision taken, to the petitioner.

8 The writ petition stands dismissed subject to the above observation/direction. No costs. Consequently, the connected miscellaneous petition is also dismissed.

[M.S.N., J.] [N.S.S., J.]

18.08.2017

Internet : Yes

AP

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To

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Tiruvannamalai.

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Tiruvannamalai District
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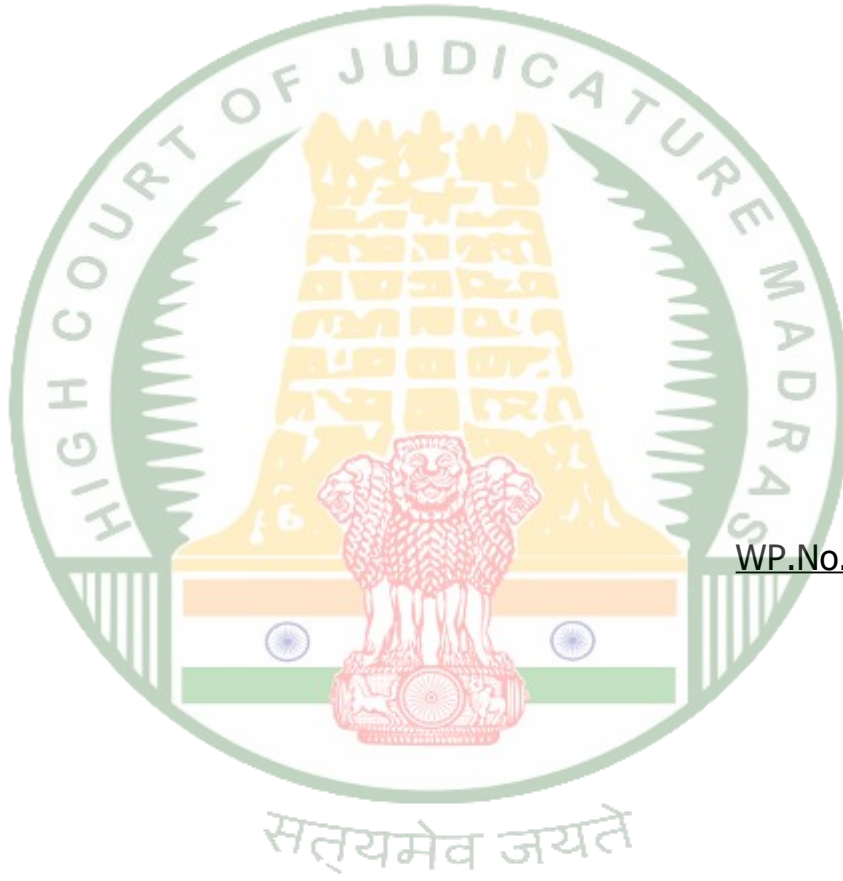
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M.SATHYANARAYANAN, J.
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