

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.05.2017

CORAM:

THE HONOURABLE MR.JUSTICE K. KALYANASUNDRAM
AND
THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. No. 12216 of 2017 and
W.M.P. 13013 & 13014 of 2017

1. A. Maheswari
2. G. Indhrani
3. Kamaraj
4. S. Amutha
5. Ganesan
6. R. Savithri
7. P. Raju

...Petitioners

Vs

1. The State of Tamilnadu
represented by its Secretary,
Department of Revenue,
Fort.St.George, Chennai -600 009.
2. The District Collector,
Salem.
3. The Revenue Divisional Officer,
Attur, Salem District.
4. The Tahsildar,
Attur, Salem District.

... Respondents

Prayer:

Writ petition is filed under 226 of Constitution of India to issue a Writ of Mandamus directing the first respondent to conduct the summary inquiry in regard to the facts of the case upon considering the objections of the petitioner pertaining to the sections 6 and 7 notices issued under Chennai Pattinam Act 3 of 1905 dated 12.09.2016 and 03.11.2016 by the 4th respondent in regard to the survey nos. 63 and 64 and further direct the respondents not to initiate any action of eviction and demolition of the residential superstructure of the petitioners herein till the disposal of the summary enquiry and subsequent proceedings.

O R D E R

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

The writ petition on hand is filed with a prayer seeking direction to the respondents to conduct summary enquiry in regard to the facts of the case upon considering the objections of the petitioner pertaining to the notices issued under Sections 6 & 7 of the Tamilnadu Land Encroachment Act 1905.

2. By consent of the learned Counsel appearing for both sides, the Writ Petition is taken up for final disposal at the admission stage itself.

3. The learned counsel appearing for the petitioners admitted that the summary notice issued under Section 7 of the Tamin Nadu Land Encroachment Act, 1905 was received by the writ petitioner and he had submitted his objection to the notices. Based on the notices, Section 6 order of summary eviction was also issued by the competent authority directing the authorities to remove encroachment. In these circumstances, the learned counsel appearing for the Writ Petitioner contended that coercive action would be taken against the writ petitioner to evict him from the premises in question.

4. Section 10 of the said Act provides for appeal to the District Collector against the order passed by the competent authority under Section 6 of the Act, which reads as follows;

"10. Appeal.-- An appeal lie (a) to the Collector from any decision or order passed by a Tahsildar or Deputy Tahsildar under this Act, and to such officer as may be specified by the State Government in this behalf hereinafter referred to as the appellate authority from any decision or order passed by an authorised officer under this Act and different appeallate authorities may be specified for different classes of cases: and

(b) to the District Collector from any decision or order of a Collector passed otherwise than on appeal, and (c) to the [Commissioner of Land Administration] from any decision or order of a District Collector passed otherwise than on appeal."

5. Further, Section 10 (B) of the Act contemplates that the petitioner shall seek Interim Order during the pendency of the Appeal before the District Collector. Such being the statutory provisions and the remedies available to the Writ Petitioner, it is not for this Court to adjudicate at this point of time and the Writ Petitioner is given liberty to approach the District Collector to seek appropriate relief and for Interim

Order, if he so desires. Such being the factum of the case, this Court it is not inclined to grant the prayer sought for by the Writ Petitioner under article 226 of Constitution of India.

6. Accordingly, this Writ Petition is dismissed with the above liberty. No costs. Consequently, connected WMPs are closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

pvs/ak

To

1. The State of Tamilnadu
represented by its Secretary,
Department of Revenue,
Fort.St.George, Chennai -600 009.
2. The District Collector,
Salem.
3. The Revenue Divisional Officer,
Attur, Salem District.
4. The Tahsildar,
Attur, Salem District.

+1cc to M/S.S.Makesh, Advocate Sr. 37028

W.P. No. 12216 of 2017 and
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VGII (CO)
VR(19/5/2017)

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