

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.05.2017

CORAM:

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

W.P.No.12351 of 2017
& W.M.P.No.13112 of 2017

K.Arumugam @ Arumugasamy .. Petitioner

Vs

- 1.The District Collector of Cuddalore
Cuddalore District,
District Collector Office, Cuddalore.
- 2.The Tashildhar,
Taluk Office, Bounagiri
Chidambaram Taluk
Cuddalore District, Tamil Nadu.
- 3.Head Land Surveyor
Taluk Office, Bounagiri
Chidambaram Taluk
Cuddalore District, Tamil Nadu.
- 4.Revenue Inspector
Sethiyathope, Chidambaram Taluk
Cuddalore District, Tamil Nadu.
- 5.Revenue Divisional Officer
Taluk Office, Bounagiri
Chidambaram Taluk
Cuddalore District, Tamil Nadu.
- 6.The Assistant Engineer
(Irrigation) Public Works Department
Sethiyathope, Chidambaram Taluk,
Cuddalore District.
- 7.The Commissioner for Land Administration
Ezhilagam, Chepauk, Chennai - 600 006. .. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying to issue Writ of Mandamus directing the Respondents more particularly the sixth respondent not to undertake any coercive action like eviction proceedings based on the order dated 22.12.2016 in Na.Ka.V3/17608/2016 passed by the first respondent till the statutory appeal filed by the petitioner against the said order under section 10-A(1) the Tamil Nadu Land Encroachment Act 1905 before the seventh respondent is disposed off.

For Petitioner : Mr.R.Manickavel

For Respondents : Mr.R.Vijayakumar
Additional Government Pleader

O R D E R

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

The relief sought for in this Writ Petition is for direction to direct the 6th respondent not to take any coercive action in the eviction proceedings based on the order in Na.Ka.V3/17608/2016 dated 22.12.2016, passed by the first respondent, till the statutory appeal filed by the petitioner against the above said order under Section 10 (A) (1) of the Tamil Nadu Land Encroachment Act 1905, before the 7th respondent / the Commissioner for Land Administration, Ezhilagam, Chepauk, Chennai, is disposed of. The competent authorities concluded the fact that the Writ Petitioner is an encroacher and hence an order of eviction was issued under the Provisions of the Tamil Nadu Land Encroachment Act 1905, in proceedings dated 22.08.2016. Against the order of eviction, the Writ Petitioner filed an appeal under Section 10 of the said Act before the District Collector and the District Collector also considered the merits of the case and issued an order of rejection, rejecting the appeal, by proceedings dated 22.12.2016.

2. The learned counsel appearing for the Writ Petitioner contended that against the order of the District Collector passed under Section 10 of the Act, a Revision was filed by the Writ Petitioner under Section 10 (A) of the Tamil Nadu Land Encroachment Act 1905 before the 7th respondent / Commissioner for Land Administration, Ezhilagam, Chepauk, Chennai.

3. The grievance advanced by the learned counsel for the Writ Petitioner is that the Writ Petitioner should be given protection during the pendency of the Revision Petition, which is pending before the 7th respondent. On a perusal of the papers tagged along with the Writ Petition, it is found that the Writ Petitioner has already taken out an application seeking interim stay of the order of the District Collector, Cuddalore, under Section 10 (B) of the Act. The said petition is also pending before the 7th respondent and without pursuing the matter before the Revisional Authority, the Writ Petitioner hurriedly filed this Writ Petition under Article 226 of the Constitution of India, which cannot be entertained. Such being the factum of the

case, this Court is not inclined to consider the arguments advanced by the learned counsel appearing for the Writ petitioner. It is suffice to direct the 7th respondent to consider the said Revision Petition as well as the stay Petition filed along with the said Revision Petition and pass appropriate orders by providing reasonable opportunities to the parties concerned, on merits and in accordance with law.

4. This Court is of the view that since the Act contemplates seeking interim order under Section 10(B), the 7th respondent has to consider the stay application immediately without any further delay and pass orders as expeditiously as possible after providing reasonable opportunities to the parties concerned and thereafter, the main Revision Petition is to be considered in accordance with law.

5. With the above observation and direction, the Writ Petition stands disposed of. No costs. Consequently, the connected W.M.P. is closed.

Sd/-
Assistant Registrar/Vacation
Officer,

//True Copy//

Sub Assistant Registrar

pvs

To

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- 7.The Commissioner for Land Administration
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+ 1 cc to the Government Pleader Sr.37140
+ 1 cc to M/s. R. Manickavel, Advocate Sr.37044

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SS(CO)
Eu 18.5.17



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