

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.07.2017

CORAM:

THE HON'BLE MR. JUSTICE M.SATHYANARAYANAN

And

THE HON'BLE MR.JUSTICE N.SESHASAYEE

W.P.No.12747 of 2017

WMP.Nos.13596 and 13597 of 2017

1.L.Neelamohan
2.L.Ethiraj
3.K.Ramesh

.. Petitioners

vs.

1.The District Revenue Officer,
Singaravelar Maligai,
Chennai-600 001.

2.The Revenue Divisional Officer,
Egmore Division,
Chennai-600 031.

3.The Tahsildar,
Guindy Taluk,
Chennai-600 015.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records of the second respondent and quash the order passed by the second respondent herein in No.A2/1460/2016 dated 31.03.2017 and consequently direct the second respondent to restore the petitioner in possession in T.S.No.38, situated within the Kottur, Chennai-600 085.

For Petitioner : Mr.P.G.Perumal Pandian
For Respondents : Mr.A.N.Thambidurai,
Special Government Pleader

ORDER

(Order of the Court was made by **M.SATHYANARAYANAN, J.**)

The learned counsel appearing for the petitioners would submit that challenging the legality of the proceedings initiated under the Land Encroachment Act, 1905 in respect of lands admeasuring to an extent of 00.07.68.0 Sq.fts. along and building and shop in Block No.16 and T.S.No.38 situated in Kottur, Chennai-600 085, the petitioner filed an appeal before the Revenue Divisional Officer, Egmore, Chennai-600 031 and vide impugned order dated 31.03.2017, it was dismissed and it was also indicated in the said order that, if the petitioner is aggrieved, he can file a revision/appeal before the District Revenue Officer, Chennai and accordingly, the petitioner filed an appeal along with the petition for stay under Section 10-B of the said Act before the first respondent and would submit that subsequent to the filing of the appeal, the petitioner was issued with notice under Section 6 of the said Act and despite entertainment of the appeal as well as the petition for Stay, superstructure of the petitioner located on the said land has been demolished and a notice board has been put up stating that the said lands belong to the Government.

2. It is the primordial submission of the learned counsel appearing for the petitioners that the respondents, without strictly adhering to the process of law as contemplated under the Land Encroachment Act, 1905, has demolished the superstructure and therefore, the petitioner and his family are in streets and prays for appropriate orders.

3. *Per contra*, Mr.A.N.Thambidurai, learned Special Government Pleader appearing for the respondents would submit that the appeal filed by the petitioner has been entertained by the District Revenue Officer, Chennai and appropriate orders will be passed on merits as expeditiously as possible.

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

5. A perusal of the order dated 31.03.2017 passed by the Revenue Divisional Officer, Egmore, Chennai would *prima facie* disclose that without assigning any proper or adequate reasons, conclusion has been reached to dismiss the appeal. It is pertinent to point out at this juncture that the Revenue Divisional Officer, Egmore, Chennai, is exercising statutory function in accordance with the provisions of the Land Encroachment Act, 1905 and Rules framed thereunder and should have taken

efforts to assign reasons while dismissing the appeal but unfortunately, the said official failed to do so. Be that as it may, the petitioners made a challenge to the said appeal, by way of appeal before the first respondent, namely the District Revenue Officer, Chennai and the said appeal has also been entertained.

6. In the light of the above facts and circumstances, this Court directed the District Revenue Officer, Chennai to provide opportunity of personal hearing to the petitioners by fixing the date of hearing and after considering the submissions to be advanced by them or their authorized representatives, shall give disposal to the Appeal or the Stay Petition on merits and in accordance with law, by way of speaking order, within a period of eight weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioners and till such time, the third respondent shall maintain the land as a vacant land and depending upon the result of the appeal before the first respondent, the petitioners are at liberty to workout their further remedy.

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7. This Writ Petition is disposed of accordingly. No costs. Consequently,

connected miscellaneous petitions are closed.

[M.S.N., J.] [N.S.S., J.]
25.07.2017

Index : Yes / No
Internet : Yes / No
jvm

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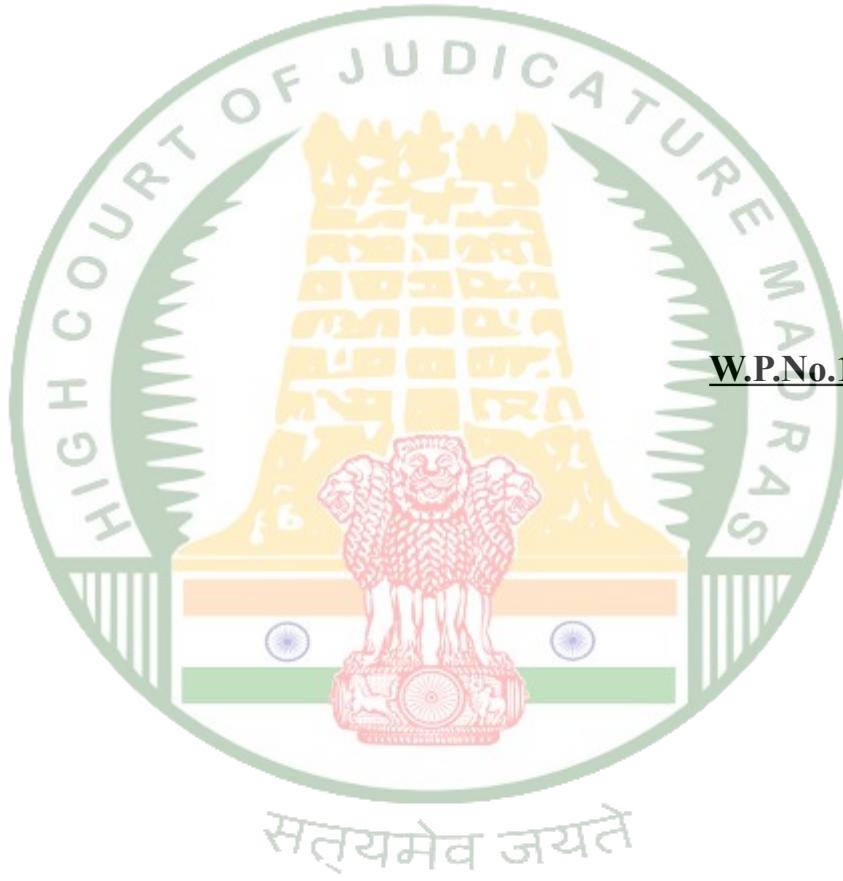
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