

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:11.07.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MR. JUSTICE N.SESHASAYEE

W.P.No.14405/2017 & WMP.No.15619/2017

K.Nallammal

.. Petitioner

Vs

1.The Tahsildar
Edappadi Taluk, Edappadi
Salem District.

2.The Revenue Inspector
Konganapuram
Edappadi Taluk, Salem District.

..
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 of the 2nd respondent issuing of notice vide proceedings NIL dated 12.05.2017 under section 7 of the Tamil Nadu Land Encroachment Act, 1095 [Act III of 1905] directing the petitioner to vacate from the petitioner's land in Survey No.457/14 measuring an extent of 0.0070.0 sq.m., situated at Koranampatti village, Edappadi Taluk, Salem District and quash the same as illegal and without jurisdiction.

For Petitioner : Mr.G.Nagarajan

For RR 1 & 2 : Mr.R.Vijayakumar, AGP

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 claims to be a permanent resident of Koranampatti Village, Edappadi Taluk, Salem District, and is owning land admeasuring to an extent of 0.0070.0 sq.m., in

Survey No.457/14 and according to the petitioner, the said land was assigned to her by the Government of Tamil Nadu, through the 1st respondent vide Assignment Proceedings in Na.Ka.No.1663/2012/A3 dated 16.11.2012 and the petitioner, after getting the assignment, had also put up a superstructure and obtained electricity connection and she has been issued with the Family Ration Card and patta in Patta No.462 was also granted in her favour. The petitioner would further aver that to her shock and surprise, proceedings have been initiated under the provisions of the Tamil Nadu Land Encroachment Act, 1905 and in this regard, she has also submitted a representation dated 18.05.2017 to the 1st respondent and in spite of receipt and acknowledgment, precipitative action is being taken to dispossess her from the said land and hence, she came forward to file the present writ petition.

3 The learned counsel for the petitioner would submit that admittedly, the land which has been assigned to the petitioner has been classified as "Grama Natham" and in such an event, the provisions of the Tamil Nadu Land Encroachment Act, 1905, cannot be invoked and would further submit that very many writ petitions have been entertained and interim orders are in operation and therefore, prays for appropriate orders.

4 Per contra, Mr.R.Vijayakumar, learned Additional Government Pleader appearing for the respondents on instructions, would submit that patta granted in favour of the petitioner has been cancelled during February 2017 and the land in question is re-classified as "Natham" and since the petitioner is having an effective alternate remedy under section 10 of the said Act, the writ petition is not maintainable and prays for dismissal of the writ petition.

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

6 Though the petitioner prays for a larger relief, this Court, in the light of the above rival submissions and on the facts and circumstances, permits the petitioner to avail the alternate remedy of appeal, by filing the same before the Collector of Salem District within a period of two weeks from the date of receipt of a copy of this order and till such time, the 1st respondent shall defer the proceedings. The Collector of Salem District, on filing of the appeal, shall entertain the same, if the papers are otherwise in order and thereafter, shall consider and dispose of the said appeal on merits and in accordance with law within a further period of six weeks thereafter and communicate the decision taken, to the petitioner herein.

5 The writ petition stands disposed of with the above

direction at the admission stage itself. Consequently, the connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

AP

To

1.The Tahsildar
Edappadi Taluk, Edappadi
Salem District.

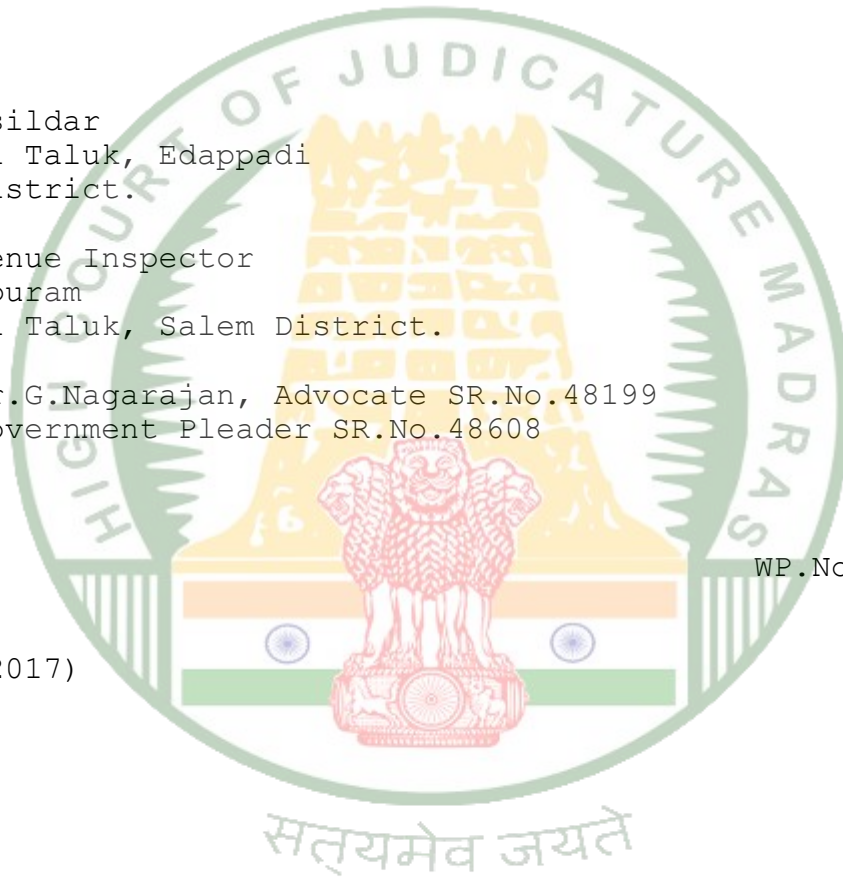
2.The Revenue Inspector
Konganapuram
Edappadi Taluk, Salem District.

+1cc to Mr.G.Nagarajan, Advocate SR.No.48199

+1cc to Government Pleader SR.No.48608

WP.No.14405/2017

GN(26/07/2017)



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