

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.07.2017

CORAM

THE HONOURABLE Mr.JUSTICE M.SATHYANARAYANAN
and
THE HONOURABLE Mr.JUSTICE N.SESHASAYEE

W.P.No.15055 of 2017
and
WMP.Nos.16294 & 16295 of 2017

B.Babu

... Petitioner

Vs.

1.Executive Engineer,
Zonal Office -I,
Chennai Metropolitan Water Supply and
Sewerage Board,
No.1, New Avadi Road, Kilpauk,
Chennai - 600 010.

2.The District Collector,
O/o. District Collector,
Thiruvallur.

3.The Deputy Collector (Land)
O/o. District Collector,
Thiruvallur.

4.The Tahsildar,
O/o. Tahsildar,
Madavaram,
Chennai.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of certiorarified Mandamus calling for the records relevant to the notice issued u/s. 6 of Tamil Nadu Land Encroachment Act 1905, dated 1.6.2017 received on 09.06.2017 issued by the first, third and fourth respondents and quash the same as illegal, improper, unreasonable, arbitrary, against the principles of natural justice and violative of the G.O.Ms.No.540, Revenue (LD 6(2)), dated 4.12.2014, issued in compliance of the order of the High Court in WP.No.26722 of 2013 order dt.11.08.2014 thereby, direct the second respondent to grant patta in respect of residential property situated in Survey No.190A/1A, Vigneshwara Nagar, II

Street, Soorappattu Village, Madavaram Taluk and District, to an extent of 1200 sq.ft. Of the land in the name of the petitioner herein immediately.

For Petitioner : Mr.Xavier Felix

For Respondents : Mr.Karthikeibalan for R1
Mr.R.Vijayakumar, AGP
for R2 to R4

O R D E R

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

By consent, the Writ Petition is taken up for final disposal. Mr.Kathikeibalan, learned counsel accepts notice on behalf of the 1st respondent and Mr.R.Vijayakumar, learned Additional Government Pleader accepts notice on behalf of respondents 2 to 4.

2. The petitioner who was issued with a notice under Section 6 of the Tamil Nadu Land Encroachment Act, 1905 alleging encroachment of Government land admeasuring to an extent of 106 sq.mtr., along with superstructures in S.F.No.190(A)/1(A) at Soorapet, Madhavaram Taluk, Chennai, filed a statutory appeal under Section 10 of the Tamil Nadu Encroachment Act 1905, before the Appellate Authority, and the grievance expressed by him is despite the pending appeal along with the petition for stay, the respondents 3 and 4 are taking emergent steps to dispossess the petitioner without following the due process of law. Hence, he came forward to file this writ petition.

3. Mr.Xavier Felix, the learned counsel appearing for the petitioner would submit that prior to the issuance of notice under Section 6 of the Tamil Nadu Land Encroachment Act, the petitioner was not issued with notice under Section 7 of the said Act. Therefore, the impugned order is vitiated and he would further submit that though the petitioner along with the appeal had filed a petition for stay, neither the stay petition nor the appeal was considered by the second respondent and therefore, the petitioner prays for appropriate orders.

4. This Court heard the submissions of Mr.Karthikaibalan, the learned counsel appearing for the first respondent and Mr.R.Vijayakumar, the learned Additional Government Pleader appearing for respondents 2 to 4 and also perused the materials placed before it.

5. Though the petitioner prays for a larger relief, this Court, in the light of the facts and circumstances and without going into the merits of the case, directs the second respondent

or the officials authorised by him to either take the appeal on file for final disposal, if the papers are otherwise in order, or take up the stay petition first and pass orders in accordance with law as expeditiously as possible, in any event, not later than six weeks from the date of receipt of a copy of this order and communicate the decision taken to the petitioner and till such time, shall defer the proceedings in terms of the impugned notice under Section 6 of the Tamil Nadu Land Encroachment Act, 1905.

6. The writ petition stands disposed of with the above direction No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

To

1.Executive Engineer,
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Sewerage Board,
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3.The Deputy Collector (Land)
O/o. District Collector,
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4.The Tahsildar,
O/o. Tahsildar,
Madavaram,
Chennai.

+1cc to M/s.S.Xavier Felix,Advocate sr.48282

+1cc to Government Pleader sr.47670

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ss (20/07/2017)