

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.09.2017

CORAM:

THE HON'BLE MR. JUSTICE M.SATHYANARAYANAN
And
THE HON'BLE MR.JUSTICE N.SESHASAYEE

W.P.No.25412 of 2017
and WMP.Nos.26854 of 2017

Mrs.Kovil Pillai

.. Petitioner

vs.

1. The District Collector,
Office of the District Collector,
Kancheepuram District.
2. The Tahsildar,
Sholinganallur Taluk,
Sholinganallur,
Chennai-119.
3. The Village Administrative Officer,
Vengai Vassal Village,
Sholinganallur Taluk,
Kancheepuram District.
4. The Revenue Inspector,
Medavakkam Sub-Taluk,
Sholinganallur Taluk,
Kancheepuram District.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the first respondent herein to dispose of the appeal filed by the petitioner under Section 10 of the Tamil Nadu Land Encroachment Act, 1905 dated 15.09.2017 with regard to the property in S.No.78/1, Vengai Vasal Village, Sholinganallur Taluk for an extent of 284 Sq.meters and pass orders in accordance with law.

For Petitioner	:	Mr.Edwin Prabakar
For Respondents	:	Mr.A.N.Thambidurai, Special Government Pleader

O R D E R

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

By consent, this Writ Petition is taken up for final disposal.

2. The petitioner, in the affidavit filed in support of this petition, averred that she and her husband, out of their hard earned money, constructed a house in S.No.78/1, Vengai Vasal Village, Sholinganallur Village, admeasuring to an extent of 284 Sq.mtrs and after putting up construction, the said land and property is also subjected to statutory levies from the year 1987. The petitioner had also applied for patta for the entire extent of 2.17.0 hectrares, out of which, patta was granted for 2.99 acres and for the remaining area, the application for patta is under process. The grievance expressed by the petitioner is that all of a sudden, without due and proper application of mind, the second respondent had issued notices under Sections 7 and 6 of the Tamil Nadu Land Encroachment Act, 1905 dated 19.08.2017 and 05.09.2017 and challenging the same, he had filed a Statutory Appeal under Section 10 of the said Act on 15.09.2017 and pending consideration of the appeal, urgent steps are being taken by the respondents 2 and 3 to dispossess the petitioner from the premises in question and therefore, she is constrained to file this writ petition.

3. Mr.A.Edwin Prabakar, learned counsel appearing for the petitioner has invited the attention of this Court to the typed set of documents and would submit that though the petitioner can be termed as encroacher, the fact remains that she is in possession and enjoyment of the land in question for very many decades and she has been issued with Aadhar Card, Voter Identity Card and the property is also subjected to statutory levies and therefore, the course open to the respondents if any is to regularize the encroachment and therefore, prays for appropriate orders.

4. Per contra, Mr.A.N.Thambidurai, learned Special Government Pleader, who accepts notice on behalf of the respondents, would submit that the petitioner is having an effective alternative remedy by way of Statutory Appeal under Section 10(1) of the Tamil Nadu Land Encroachment Act, 1905 and therefore, this Writ Appeal is not maintainable and therefore, prays for dismissal of this Writ Petition.

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

6. Admittedly, the petitioner has challenged the notices issued under Sections 7 and 6 of the Tamil Nadu Land Encroachment Act, 1905 by filing an appeal under Section 10(1) of the said Act before the first respondent along with a petition for Stay. This Court, taking into consideration the above facts and circumstances and without going into the merits of the appeal filed by the petitioner dated 15.09.2017, directs the first respondent to entertain the appeal, if the papers are otherwise in order and may take up either the appeal or the petition for stay and dispose of the same on merits and pass orders in accordance with law within a period of eight weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner and till such time, the respondents 2 to 4 shall defer further decision in terms of the notices issued under Sections 7 and 6 of the Tamil Nadu Land Encroachment Act, 1905 dated 19.08.2017 and 05.09.2017 respectively.

7. This Writ Petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

jvm

To

1. The District Collector,
Office of the District Collector,
Kancheepuram District.

2. The Tahsildar,
Sholinganallur Taluk,
Sholinganallur,
Chennai-119.

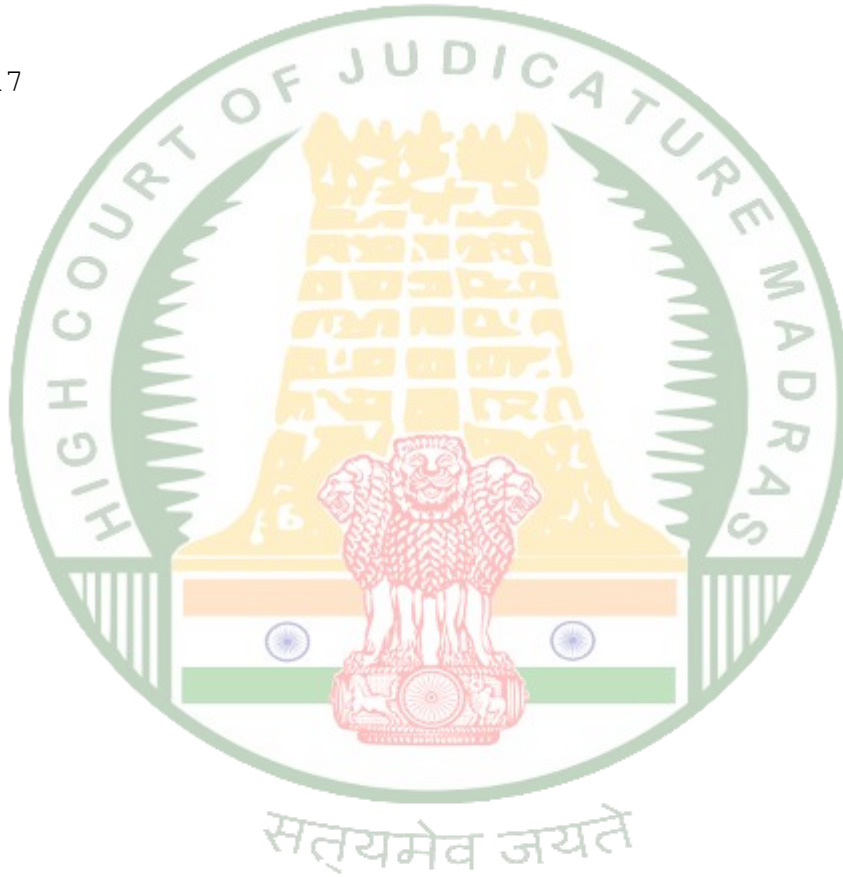
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Sholinganallur Taluk,
Kancheepurm District.

+2cc to Mr.Edwin Prabakar, Advocate, S.R.No.69944

W.P.No.25412 of 2017

MG (CO)
CS/28/09/17



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