

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:10.07.2017

CORAM:

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

W.P.No.16128/2017 and WMP.No.17420/2017

S.Saroja

... Petitioner

Vs

1.The District Collector,
Collectorate,
Salem District-636 001.

2.The Superintendent of Police,
Salem District.

3.The District Revenue Officer,
Collectorate,
Salem District-636 001.

4.The Revenue Divisional Officer,
Attur Taluk, Salem District.

5.The Deputy Superintendent of Police,
Attur Taluk, Salem District.

6.The Tahsildar,
Attur Taluk, Salem District.

..Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of writ of Certirari calling for the records relating the proceedings of Section 6 notice dated 28.04.2017 passed by the 6th respondent and quash the same based on the petitioner representation dated 05.05.2017 and reminder representation dated 20.05.2017.

For Petitioner : Mr.A.Rajakumar
For Respondents : Mr.R.Vijayakumar,
Additional Government Pleader
for all respondents

ORDER

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

By consent, the writ petition is taken up for final disposal

2 The 6th respondent has initiated action under the provisions of the Tamil Nadu Land Encroachment Act, 1905, by issuing Section 7 notice dated 13.02.2017 and followed by Section 6 notice dated 28.04.2017 alleging that the petitioner has encroached upon the lands admeasuring to an extent of 0.16.0 cents in Survey No.59/5 and 0.0.15 cents in Survey No.62/1 classified as "Government Poromboke" and the lands admeasuring to an extent of 0.01.5 cents and 0.17.5 cents in S.No.2A/4 classified as "Vantipathai" [Cart Track], Kothampadi Village.

3 Learned counsel appearing for the petitioner would submit that the petitioner's lands in question were in possession of predecessor in title and the petitioner got right, title and possession in the form of Registered Sale Deed dated 13.09.1978 and the respondents without properly adhering to the procedure contemplated under the law, has issued notice to evict / dispossess the petitioner and prays for appropriate orders.

4 Ms.A.Rajeshwari, Revenue Inspector, Athur Taluk, Salem District, is also present before this Court along with the records maintained by the 6th respondent / Tahsildar.

5 Per contra, Mr.R.Vijayakumar, learned Additional Government Pleader appearing for the respondents 1 to 6, upon producing the files before this Court, would submit that in the light of various representations regarding removal of encroachment committed by Mr.Mohan, Mr.Sannasi, Mr.Saroja, Mr.Govindasamy, M/s.Manimegalai, M/s.Alagammal and M/s.Chellamuthu, action is being taken under the provisions of Tamil Nadu Land Encroachment Act, 1905 and since, the petitioner is having effective alternate remedy in the form of appeal, the writ petition is not maintainable and prays for dismissal of the writ petition.

6 This Court has heard the rival submissions and also perused the materials placed before it.

7 Section 10 of the Tamil Nadu Land Encroachment Act, 1905, provides an alternate remedy. In the light of the same, the petitioner is at liberty to file an appeal along with necessary documents before the 1st respondent within two weeks from the date of receipt of a copy of this order and the 1st respondent, on receipt of the same shall entertain the appeal, if the papers are otherwise in order and thereafter, he can take up the appeal either by himself or by directing his subordinate officials to consider and dispose of the said appeal on merits and in accordance with law within a further period of four weeks thereafter and communicate the decision to the petitioner, and till such time further decision shall be deferred in furtherance of the Impugned notice. It is also made clear that the petitioner, till the disposal of the

appeal by the 1st respondent/Subordinate official shall not create any third party right in respect of the lands in question and shall not put up any unauthorised construction.

8 The writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

To

1.The District Collector,
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2.The Superintendent of Police,
Salem District.

3.The District Revenue Officer,
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4.The Revenue Divisional Officer,
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5.The Deputy Superintendent of Police,
Attur Taluk, Salem District.

6.The Tahsildar,
Attur Taluk, Salem District.

+1 cc to Mr.A.Rajaratnam,advocate,sr.47740

+1 cc to Govt.Pleader,sr.48117.

Sj(co)
krd 29/7

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