

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.10.2017

CORAM :

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

W.P.No.26386 of 2017 & W.M.P.No.28045 of 2017

A.Ramprasad

...Petitioner

Vs

1. The Commissioner of Land Administration,
Revenue Department, Ezhilagam,
Chepauk, Chennai - 600 005.
2. The District Collector,
Chennai, Chennai District.
3. The Tahsildar,
Guindy Taluk, Guindy,
Chennai - 600 032.

.... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India for issuance a Writ of Certiorarified Mandamus to call for the records of the 2nd respondent in Na.Ka.No.05/6095/2017 dated 26.09.2017 and quash the same as illegal, arbitrary and non est in law and consequently forbear the respondents from interfering with the petitioner peaceful possession and enjoyment of the property comprised in old S.No.44, Town S.No.32 and 38 in Block No.16, situated at Kottur Village, Guindy Taluk, Chennai District.

For Petitioner : Mr.B.Vijay

For RR1 to R3 : Mr.A.N.Thambidurai, Spl.GP

ORDER

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

The learned counsel appearing for the writ petitioner on instructions, made the following endorsement in the writ petition:

"The writ petitioner seeks liberty of this Honourable Court to withdraw this writ petition, to approach first respondent to prefer revision."

2 It is relevant to extract the Section 11 of the Tamil Nadu Land Encroachment Act, 1905:-

"11 [1] No appeal shall be preferred under section 10 after the expiration of thirty days from the date on which the decision or order appealed against was received by the appellant.

[2] No application for revision shall be preferred under sub-section [1] of section 10-A after the expiration of thirty days from the date on which the decision or order sought to be revised was received by the applicant.

[3] In computing the period of thirty days referred to in sub-section [1] and [2], the time required to obtain a copy of the decision or order appealed against or sought to be revised shall be excluded.

[4] Notwithstanding anything contained in sub-section [1] and [2] the officer or authority concerned or the State Government may admit an appeal or application preferred after the period specified therein, if such officer or authority or Government is or are satisfied that the appellant or applicant had sufficient cause for not preferring the appeal or application within that period."

3 In the considered opinion of the Court, the petitioner is having an effective alternate remedy under Section 10-A of the said Act by filing a revision before the Commissioner of Land Administration and in the light of the same, the learned counsel appearing for the petitioner has also made the said endorsement. Section 10-B of the said Act also provides for stay pending decision on the appeal or revision.

4 In the light of the endorsement, liberty sought for by the petitioner is granted and the petitioner may file a revision petition along with the petition for stay within a period of thirty days from the date of receipt of the impugned order on 05.10.2017 to the 1st respondent, who upon receipt of the same, shall entertain the petition along with the petition for stay, if the papers are otherwise in order and the said official shall take up the petition for stay and give a disposal in accordance with law within a period of four weeks from the date of

entertainment of the revision petition and till the filing of the stay petition, the respondents 2 and 3 shall defer the further decision. The 1st respondent shall accord priority and give disposal of the revision petition in accordance with law within a period of eight weeks from the date of disposal of the stay petition and communicate the decision taken, to the petitioner herein.

5 The writ petition is dismissed as withdrawn subject to the above observation and direction. No costs. Consequently, the connected miscellaneous petition is also dismissed.

Sd/-
Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

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To

1. The Commissioner of Land Administration,
Revenue Department, Ezhilagam,
Chepauk, Chennai - 600 005.
2. The District Collector,
Chennai, Chennai District.
3. The Tahsildar,
Guindy Taluk, Guindy,
Chennai - 600 032.
4. The Section Officer,
E.R.Section, High Court, Madras.

+1cc to Mr.B.Vijay, Advocate Sr. 72590

+1cc to the Special Government Pleader, Sr. 73351

W.P.No.26386 of 2017

MR(CO)
VR(13/10/2017)