

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.12.2017

CORAM

THE HONOURABLE MR. JUSTICE R. SURESH KUMAR

W.P.No.30262 of 2002

V.Krishnan

... Petitioner

Vs.

1.The Tahsildar,
Taluk Office,
Dharmapuri - 636 701.

2.The State of Tamil Nadu rep. by
The District Collector,
Dharmapuri- 636 701.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus, to call for the records of the 1st respondent in Na.K.aNo.8810/2002 C3, dated 11.07.2002 and quash the same and consequently, direct the 1st respondent not to evict the petitioner in respect of the property of an extent of 0.28.5 hectares in Survey No.126 in Vellagoundanpalayam, Dharmapuri Taluk & District, without following the procedure contemplated under Sections 6 and 7 of the Land Encroachment Act.

For Respondents : Mr.A.Zakir Hussain,
Government Advocate

ORDER

The prayer sought for in this Writ Petition is for a Writ of Certiorarified Mandamus, calling for the records of the 1st respondent in Na.K.aNo.8810/2002 C3, dated 11.07.2002, quash the same and consequently, direct the 1st respondent not to evict the petitioner in respect of the property of an extent of 0.28.5 hectares in Survey No.126 in Vellagoundanpalayam, Dharmapuri Taluk & District, without following the procedure contemplated under Sections 6 and 7 of the Land Encroachment Act.

2.No one is appearing for the petitioner, when the case is called today. Since the Writ Petition is of the year 2002 and has been pending for more than 15 years, this Court is inclined to dispose of this Writ Petition on merits.

3.Heard the learned Government Advocate appearing for the respondents.

4.The petitioner has challenged the notice issued by the respondent No.1, vide his proceedings in Na.K.aNo.8810 /2002 C3, dated 11.07.2002. According to the said notice, the land in Survey No.126 to the extent of 0.28.5 hectares at Vellagoundanpalayam, Dharmapuri Taluk & District, is a Government poramboke land where the petitioner had encroached upon 0.04.0 hectares of land and had been using the same.

5.Since the said poramboke land to the entire extent of 0.28.5 hectares was earmarked for a specific purpose for Washermen, the respondent No.1 had issued the impugned notice dated 11.07.2002 to remove the encroachment of the petitioner within one week from the date of receipt of the said notice. Instead of acting upon the said notice, he has approached this Court by filing this Writ Petition, challenging the said notice dated 11.07.2002.

6.It is settled proposition of law that the land encroachers cannot have any vested right and if at all, they have been in occupation of the Government land, the provision of the Tamil Nadu Land Encroachment Act, 1905, can very well be invoked against such encroachers. The only requirement is to give notice under the provisions of the said Act and thereafter, it is open to the Revenue Authorities to evict such encroachers. Here, in the case in hand, such notice has been issued by the respondent No.1/Tahsildar, giving one week time to the petitioner to evict from the Government Land, however, the petitioner has challenged the same in this Writ Petition.

7.If at all, the petitioner already replied to the impugned notice dated 11.07.2002, based on such reply, order could have been passed by this time. If any reply has not been given and the petitioner has not evicted from the said land, it is open to the respondent No.1 to take action under the provisions of the Tamil Nadu Land Encroachment Act, for eviction of the petitioner.

8.In view of this position, the notice dated 11.07.2002, which is impugned herein, cannot be challenged as the said impugned notice has been issued only under the provision of the Tamil Nadu Land Encroachment Act, this Court reject the claim of the petitioner seeking to quash the said notice dated 11.07.2002.

In the result, this Writ Petition is dismissed with the aforesaid observations. No costs.

Sd/-

Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

mps

To

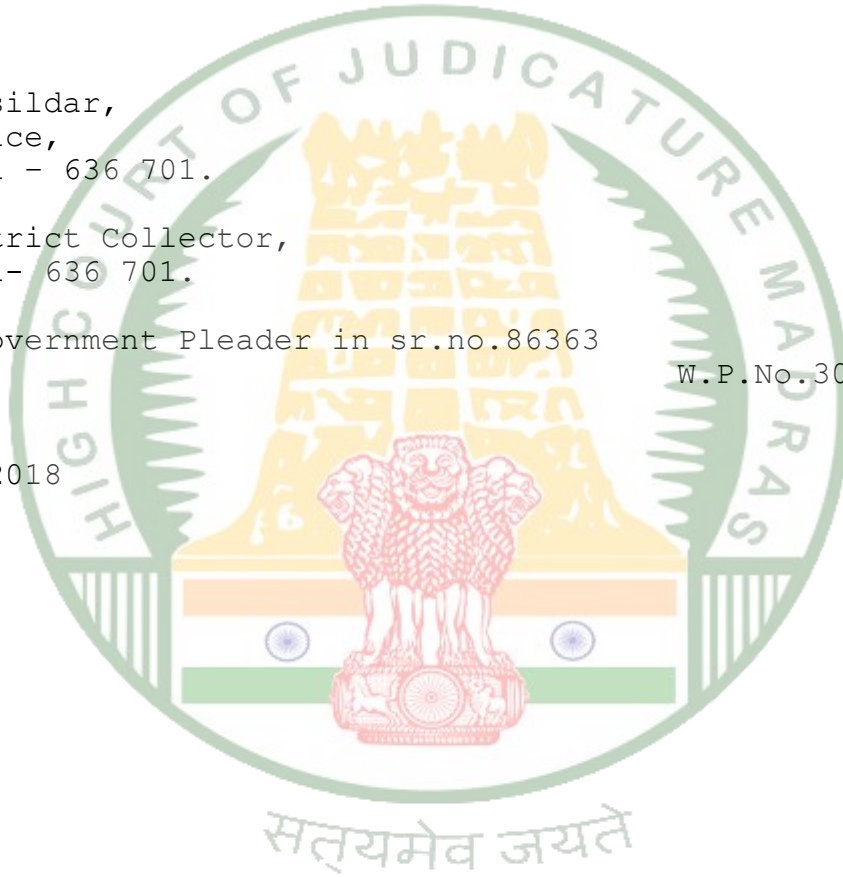
1.The Tahsildar,
Taluk Office,
Dharmapuri - 636 701.

2.The District Collector,
Dharmapuri- 636 701.

+1cc to Government Pleader in sr.no.86363

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gj(co)
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