

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:19.07.2017

CORAM:

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

W.P.No.18398/2017 & WMP.Nos.19966 to 19968/2017

P.Moorthy

.. Petitioner

Vs

1.The Executive Engineer  
Zonal Office-I, Chennai Metropolitan  
Water Supply and Sewerage Board  
No.1, New Avadi Road, Kilpauk  
Chennai 600010.

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

3.The Revenue Divisional Officer  
O/o.the Revenue Divisional Officer  
Thirumangalam Salai, Ambattur,  
Chennai 600 053.

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

.. Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of certiorarified mandamus calling for the records relevant to the notice issued u/s.6 of the Tamil Nadu Land Encroachment Act, 1905, Na.Ka.No.3383/2017 dated 01.06.2017 received on 09.06.2017 issued by the 1<sup>st</sup>, 3<sup>rd</sup> and 4<sup>th</sup> respondents and quash the same as illegal, improper, unreasonable, arbitrary, against the principles of natural justice and violative of G.O.Ms.NO.540, Revenue [LD-6[2]] dated 04.12.2014, issued in compliance of the order of this Court in WP.No.26722/2013 order dated 06.01.2015 thereby direct the 2<sup>nd</sup> respondent to grant patta in respect of residential property situated in Survey No.190A/1A, Vigneswara Nagar, 2<sup>nd</sup> Street, Soorapattu Village, Madavaram Taluk and District to an extent of 600 sq.ft. of the land in the name of the petitioner herein immediately.

For Petitioner : Mr.S.Xavier Felix  
For R1 : Mr.N.Ramesh  
For R2 to R4 : Mr.A.N.Thambidurai, Spl.GP

ORDER

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

By consent, the writ petition is taken up for final disposal. Mr.N.Ramesh, learned counsel accepts notice on behalf of the 1<sup>st</sup> respondent and Mr.A.N.Thambidurai, learned Special Government Pleader accepts notice on behalf of the respondents 2 to 4.

2 The petitioner, in the affidavit filed in support of this writ petition would aver among other things, that he is a resident of Door No.14, Vigneshwara Nagar, 2<sup>nd</sup> Street, Soorapet, Madavaram, Chennai 600 099, along with his family and he originally purchased a vacant site admeasuring to an extent of 600 sq.ft., in the said village from a Local Councilor, namely, Mr.Sakthivel, for a valid sale consideration of Rs.2 lakhs, through an unregistered Sale Deed and ever since the date of purchase, he claims to be in possession and enjoyment of the same. The petitioner would further aver that similarly very many persons have purchased lands located in the said area through unregistered Sale Deeds and the petitioner has also put up a superstructure and the said superstructure has been given the basic amenity of electricity service connection and the petitioner has also been issued with Family/Ration Card and the said property is also subjected to statutory levies. However, to his shock and surprise, all of a sudden, he was issued with a notice under section 6 of the Tamil Nadu Land Encroachment Act, 1905, stating among other things that he is an encroacher of a Government land admeasuring to an extent of 0.52.5 ares in Survey No.190A/1A situate in the said village and challenging the legality of the same, the petitioner filed a statutory appeal before the Appellate Authority, viz., the 2<sup>nd</sup> respondent herein, and despite receipt and acknowledgment, no response is forthcoming and in the interregnum, steps are being taken by the respondents 3 and 4 to dispossess the petitioner and hence, the petitioner came forward to file the present writ petition.

3 Mr.S.Xavier Felix, learned counsel for the petitioner would submit that the petitioner belongs to economically backward class and with the hard earned money, he purchased the property in question through an unregistered Sale Deed from the Councilor of the Local Body belonging to a particular party and similarly, very many persons purchased lands and put up superstructures and the petitioner's property is also subjected to statutory levies and in all fairness, he can be evicted/dispossessed only through due process of law and prays for appropriate orders.

4 Mr.N.Ramesh, learned Standing Counsel appearing for the 1<sup>st</sup> respondent would submit that the land in question belongs to Metro Water and it is required for laying of pipelines etc., and as such, the claim of the petitioner is not bona fide and prays for dismissal of the writ petition.

5 The Court heard the submissions of Mr.A.N.Thambidurai, learned Special Government Pleader appearing for the respondents 2 to 4 and also perused the materials placed before it.

6 Section 10 of the Tamil Nadu Land Encroachment Act, 1905, contemplates as against the decision taken for removal of encroachment, an appeal would lie and according to the learned counsel for the petitioner, an appeal has been preferred under the said provision to the 2<sup>nd</sup> respondent and despite receipt and acknowledgment, it is yet to be taken on file.

7 This Court, in the light of the above facts and circumstances and without going into merits of the claim projected by the petitioner either in the appeal memorandum or in this writ petition, directs the 2<sup>nd</sup> respondent to entertain the Appeal Memorandum dated 12.06.2017 filed by the petitioner on file, if the papers are otherwise in order and after putting the 1<sup>st</sup> respondent on notice, either take up the Appeal by himself or direct his subordinate officials to consider and dispose of the said appeal on merits and in accordance with law and pass appropriate orders as expeditiously as possible and not later than eight weeks from the date of receipt of a copy of this order and till such time, the respondents 3 and 4 shall defer further decision in terms of the impugned notice dated 01.06.2017 issued under section 6 of the Tamil Nadu Land Encroachment Act, 1905.

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

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Sd/-  
Assistant Registrar(CCC)

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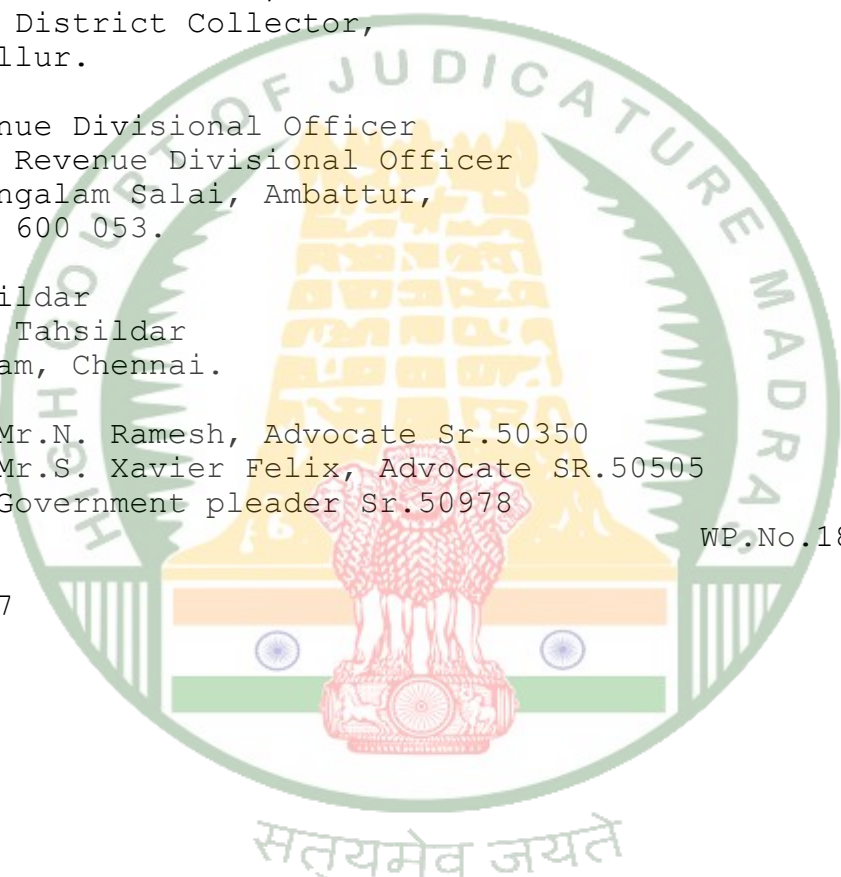
Sub Assistant Registrar

To

- 1.The Executive Engineer  
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  - 2.The District Collector,  
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  - 4.The Tahsildar  
O/o.The Tahsildar  
Madavaram, Chennai.
- + 1 cc to Mr.N. Ramesh, Advocate Sr.50350  
+ 1 cc to Mr.S. Xavier Felix, Advocate SR.50505  
+ 1 cc to Government pleader Sr.50978

WP.No.18398/2017

EU 31.07.17



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