

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.07.2017

CORAM:

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

W.P.No.19099 of 2017

&

W.M.P.Nos.20609 to 20611 of 2017

Aarayi

... 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, dated 01.06.2017 issued by the 1st, 3rd and 4th 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 2nd respondent to grant patta in respect of residential property situated in Survey No.190A/1A, Vigneswara Nagar, 2nd 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.G.Janakiraman
For R2 to R4 : Mr.P.Sanjay Gandhi,
Additional Government Pleader

ORDER

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

By consent, the writ petition is taken up for final disposal. Mr.G.Janakiraman, learned counsel accepts notice on behalf of the 1st respondent and Mr.P.Sanjay Gandhi, learned Additional 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 she purchased a vacant site admeasuring to an extent of 600 sq.ft., at Soorapattu village, Madhavaram Taluk, Tiruvallur District, through an unregistered Sale Deed, for a valid sale consideration of Rs.2 lakhs and she has also put up a superstructure and residing along with her family for the past 15 years and also obtained electricity service connection and the said property is also subjected to statutory levies.

3. Mr.S.Xavier Felix, learned counsel for the petitioner would submit that to the shock and surprise of the petitioner, she was issued with a notice under section 6 of the Tamil Nadu Land Encroachment Act, 1905, [hereinafter referred to as "the Act"] stating among other things that she is an encroacher of a Government land admeasuring to an extent of 0.45 sq.m. in Survey No.190A/1A situate in the said village and has also put a superstructure. The primordial submission of the learned counsel for the petitioner is that prior to the issuance of notice under section 6 of the Act, notice under section 7 of the Act has not been issued and though, the petitioner made a challenge to the said notice by filing an appeal before the 2nd respondent, the same has not even been taken on file and in the interregnum, the 4th respondent is threatening the petitioner to dispossess her and therefore, prays for appropriate orders.

4. Per contra, Mr.P.Sanjay Gandhi, learned Additional Government Pleader appearing for the respondents 2 to 4 would submit that if the appeal papers are otherwise in order, it will be entertained and appropriate orders will be passed in accordance with law at an early date.

5. The Court heard the submissions of Mr.G.Janakiraman, learned Standing counsel appearing for the 1st respondent 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, appeal would lie and according to the learned

counsel for the petitioner, an appeal has been preferred under the said provision to the 2nd 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 2nd 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 1st 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.

Sd/-
Assistant Registrar(CS V)

//True Copy//

AP
To

Sub Assistant Registrar

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Water Supply and Sewerage Board
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