

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.01.2017

CORAM :

The Hon'ble MR.SANJAY KISHAN KAUL, CHIEF JUSTICE
AND
The Hon'ble MR.JUSTICE M.SUNDAR

W.P.No.31373 of 2012
and
M.P.Nos.2 and 3 of 2012

A.Ramakrishnan ... Petitioner

-Vs-

1. The District Collector,
Tiruvallur District at Tiruvallur.
2. he Tahsildar
Madavaram Taluk, Madavaram,
Tiruvallur District. ... Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorarified Mandamus to call for the records relating to the order in Na.Ka.8837/2012/AA1 dated Nil September 2012 issued under section 6 of the Tamil Nadu Land Encroachment Act, 1905, served on the petitioner's son on 07.11.2012 passed by the 2nd respondent and quash the same as illegal, improper, against law, arbitrary, violation of principles of natural justice, total non application of mind and thereby direct the respondents to issue patta in respect of property situated at Survey No.1471/1C4 at Door No.23/38, P.R.H. Road, Lakshmipuram, Madavaram, Chennai 600 099, totally to an extent of 1780 sq.ft. land and building in the name of the petitioner.

For Petitioner : Mr.A.Rajesh Kanna

For Respondents : Mr.R.Vijayakumar
Additional Government Pleader

O R D E R

(Order of the Court was made by The Hon'ble Chief Justice)

The petitioner claims that the order has been passed under Section 6 of the Tamil Nadu Land Encroachment Act, 1905 (hereinafter referred to as 'the said Act') without jurisdiction

as the land in question is Natham land and is being used only for residential purpose. He also seeks to plead that the said notice was not preceded by a notice under Section 7 of the said Act.

2.Learned counsel for the petitioner further states that an appeal was filed on 12.11.2012 before the Collector, but on perusal we find that the appeal is not filed by the petitioner but by his son. Thus, the appeal itself would not be maintainable.

3.We are of the view that the petitioner must avail of the appellate remedy first by filing an appeal before the Competent Authority which can also enquire into the jurisdictional as well as factual issues as of the user of the land and the appeal will be filed within a period of fifteen (15) days from today and on such appeal being filed, the matter would be examined within a maximum period of two (2) months thereafter.

Writ petition, accordingly, stands disposed of. No costs. Consequently, M.P.Nos.2 and 3 of 2012 stand closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

sra

To

1. The District Collector,
Tiruvallur District at Tiruvallur.
2. The Tahsildar
Madavaram Taluk, Madavaram,
Tiruvallur District.

+1cc to Mr.A.Rajesh Kanna, Advocate, S.R.No.1116
+1cc to the Government Pleader, S.R.No.1175

W.P.No.31373 of 2012

KSJ(CO)
CA(18/01/2017)