



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 04.08.2017

CORAM :

WEB COPY

**THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**

W.P(MD)No.12681 of 2013
and
M.P(MD) No.1 of 2013

R.Selvarajan

... Petitioner

Vs.

1. The District Collector,
Thoothukudi District,
Thoothukudi.
2. The Tahsildar,
Thoothukudi District.
3. The Principal Secretary,
Commissioner of Land Administration,
Ezhilagam, Chepauk,
Chennai - 628 005.
4. The Secretary to Government,
Revenue Department,
Secretariat, St. George Fort,
Chennai - 628 009.

... Respondents

Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the proceedings of the Letter No.11243/LD6(2)/2013-4 dated 03.07.2013 on the file of the fourth respondent and quash the same and further directing the fourth respondent to take on file, the revision filed by the petitioner and dispose the same in accordance with law.

For Petitioner : Mr.R.Maheswaran
For Respondents : Mr.M.Govindan, Spl.G.P.

O R D E R

(Order of the Court was made by G.R.SWAMINATHAN, J.)

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The writ petitioner suffered an order under Section 6 of the Tamil Nadu Land Encroachment Act, 1905. The same was questioned by



filing an appeal before the first respondent. The appeal was dismissed on 14.03.2013. A revision petition was filed before the Secretary to Government, Revenue Department. The same was returned by the impugned communication dated 03.07.2013 on the ground that the writ petitioner should file an appeal before the Principal Secretary and Commissioner of Land Administration. This refusal to entertain the revision petition is challenged in this writ petition.

2.The Tamil Nadu Land Encroachment Act, 1905 provides for measures for checking unauthorised occupation of lands, which are the property of Government. Any person in such unauthorised occupation of Government land is liable to pay penalty. He is also liable to be summarily evicted. But, the Act provides for a procedure. Prior notice to person in occupation is to be issued under Section 7 of the Act by the Collector or Tahsildar or Deputy Tahsildar or Revenue Inspector or any authorized Officer or any other Officer specified by the State Government in this behalf. After holding a summary enquiry, order under Section 6 of the Act can be passed. The aggrieved occupant can file an appeal under Section 10 of the Act. If the order is passed by a Tahsildar or Deputy Tahsildar, appeal shall lie to the Collector. Section 10(A) (1)(c) of the Act provides for a further remedy of revision by the State Government, if the order has been passed by the appellate authority or by the Commissioner of Land Administration.

3.In this case, the writ petitioner filed an appeal before the appellate authority viz., the District Collector, Tuticorin and the same was dismissed. Therefore, as per Section 10(A)(1)(c) of the Act, revisional remedy would lie only before the State Government and not before the Commissioner of Land Administration. The revision filed by the petitioner was erroneously returned. We therefore quash the impugned communication dated 03.07.2013. The writ petitioner is given four weeks time from the date of receipt of a copy of this order to resubmit the revision petition before the fourth respondent. The fourth respondent shall dispose of the revision petition filed by the writ petitioner within a period of eight weeks from the date of such resubmission.

4.The writ petition is allowed as indicated above. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar



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+ 1 CC TO Mr.G.PRABHU RAJADURAI, ADVOCATE IN SR No. 70771
+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 70984

ARUL

TE/SV-MMS/SAR-IV : 18/09/2017 : 3P/7C

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M.P(MD) No.1 of 2013
04.08.2017