

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:02.04.2018

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MR. JUSTICE P.RAJAMANICKAM

W.P.No.7525/2018 & WMP.No.9373/2018

Josmin Mary

.. Petitioner

Vs

The Revenue Inspector
Karipatty Circle, karipatty-636106
Valapadi Taluk, Salem District.

.. Respondent

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of certiorari calling for the records relating to the impugned notice dated 05.03.2018 issued by the respondent herein to the petitioner u/s.7 of the Tamil Nadu Land Encroachment Act, 1905, and quash the same.

For Petitioner : Mr.T.Muruganandham, SC for
Ms.Zeenath Begum

For Respondent : Mr.R.Udhayakumar, AGP

ORDER

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

By consent, the writ petition is taken up for final disposal. Mr.R.Udhayakumar, learned Additional Government Pleader accepts notice on behalf of the sole respondent.

2 The petitioner claims that she is in occupation of the land admeasuring to an extent of 250 acres comprised in S.No.156 of Karumapuram Village, Valapadi Taluk, Salem District, and originally, the said land was assigned in favour of one Arumugam by way of Adi Dravida House Site in the early 1930s and thereafter, the said land has changed very many hands and the petitioner is now in possession and occupation of the said land in her own right. The grievance now expressed by the petitioner is that all of a sudden, the respondent has invoked the provisions of the Tamil Nadu Land Encroachment Act, 1905, and

issued the impugned notice dated 05.03.2018 under section 7 of the said Act and challenging the legality of the same, the petitioner came forward to file the present writ petition.

3 Mr.T.Muruganandham, learned Senior Counsel assisted by Ms.Zeenath Begum, learned counsel for the petitioner would submit that even as per the said Notice, the land is classified as Punjai [Punjai Tharisu] Adi Dravida House Site and in that event, the provisions of the Tamil Nadu Land Encroachment Act, 1905, cannot be invoked and since the respondent lacks jurisdiction, the petitioner need not avail the alternate remedy provided under the said Act.

4 Per contra, Mr.R.Udhayakumar, learned Additional Government Pleader appearing for the sole respondent would submit that admittedly, only notice u/s.7 of the Tamil Nadu Land Encroachment Act, 1905, has been issued and the provision u/s.6 is yet to be invoked and the petitioner is also having an effective alternate remedy u/s.10 of the said Act and as such, the writ petition is not maintainable and prays for dismissal of the writ petition.

5 The Court has considered the rival submissions and also perused the materials placed before it.

6 Though the petitioner has prayed for a larger relief, this Court, in the light of the above facts and circumstances and having found that the petitioner is having an effective alternate remedy, permits the petitioner to avail the said remedy by invoking section 10 of the Tamil Nadu Land Encroachment Act, 1905, by filing an appeal to the District Collector, Salem District, along with a petition for stay u/s.10-B of the said Act along with a copy of this order and by enclosing necessary and authenticated documents within a period of four weeks from the date of receipt of a copy of this order and upon receipt of the same, the Collector of Salem District or the Delegated Authority shall entertain the appeal along with the petition for stay, if the papers are otherwise in order and take up the petition for stay initially and give a disposal in accordance with law within a period of three weeks from the date of entertainment of the said appeal and till such time, the respondent shall defer further decision in terms of the impugned notice dated 05.03.2018. It is also open to the said Authority to take up the main appeal itself and give a disposal on merits and in accordance with law within a period of ten weeks from the date of entertainment of the appeal and communicate the decision taken, to the petitioner.

6 The writ petition stand disposed of with the above direction. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1.The District Collector,
Salem District.

2.The Revenue Inspector
Karipatty Circle, karipatty-636106
Valapadi Taluk, Salem District.

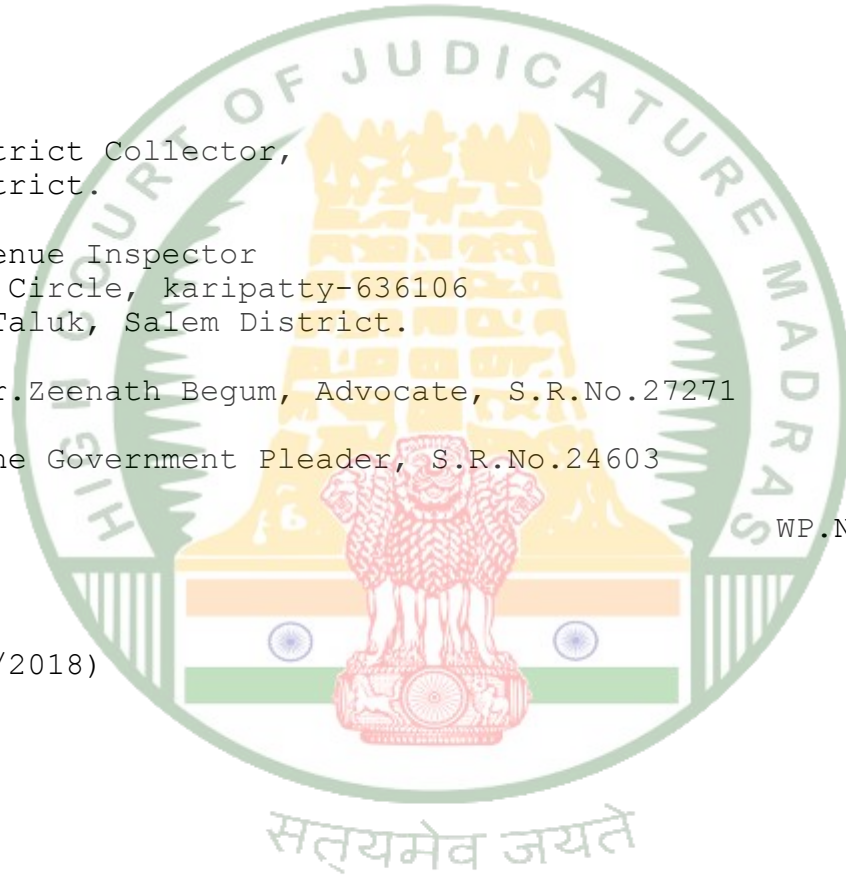
+1cc to Mr.Zeenath Begum, Advocate, S.R.No.27271

+1cc to the Government Pleader, S.R.No.24603

WP.No.7525/2018

SR(CO)

RRK(26/04/2018)



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