

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 04.06.2018

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARYANAN

AND

THE HONOURABLE MRS. JUSTICE S.RAMATHILAGAM

W.P.No.8698 of 2018

&

W.M.P.No.10617 of 2018

M.Lakshmi

... Petitioner

Versus

1. The District Collector
Erode District
Erode

2.The Tahsildar
Perundurai Taluk
Perundurai, Erode District

3.The Executive Officer
Chennimalai Town Panchayat
Chennimalai, Perundurai Taluk
Erode District

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a writ of certiorarified mandamus calling for the records of order in Na.Ka.No.96/2017/A-1 dated 14.11.2017 on the file of 3rd respondent herein and quash the same and consequently forbear the respondents from evicting the petitioner from his land without following due process of law.

For Appellant : Mr.R.Prabakar

For Respondents: Mr.R.Udhaya Kumar

ORDER

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

The petitioner claims that she is in possession of residential premises in S.F.No.190/ (Old S.F.No.257 & 258) in Atavanaipidariyur Village, Chennimalai, Erode District. It was purchased by her on 04.04.2005. The petitioner claims that after purchasing the said house property through a registered sale deed bearing Document No.327 of 1963 on 04.04.2005, she is in possession and enjoyment of the same and it is also subjected to statutory levies.

2.The grievance expressed by the petitioner is that to her shock and surprise, the third respondent, all of a sudden, passed an order on 14.11.2017 alleging that she has encroached upon the Government land, which was classified as common path at S.F.No.452/7 about 177.54 sq.ft, in the form of a superstructure. The petitioner, on receipt of such a notice, has also submitted a detailed representation dated 19.03.2018 bringing to the knowledge of the concerned respondent about the factual particulars and apprehending dispossession, without recourse to law, came forward to file this writ petition.

3.The writ petition was entertained on 11.04.2018 and status-quo in respect of the petitioner's land and superstructure was directed to be maintained.

4. The learned counsel appearing for the petitioner drawing the attention of this Court to the typed-set of documents, submitted that the impugned order

passed by the third respondent, is per se unsustainable in law for the reason that the relevant documents have not been perused and considered and therefore, prays for appropriate orders.

5.Mr.R.Udhaya Kumar, learned Standing Counsel appearing for the respondents, would submit that notice under Section 7 of the Tamil Nadu Land Encroachment Act, 1905 was issued to the petitioner and in the event of response being given, the same will be considered and disposed of.

6. However, learned counsel for the petitioner disputed the fact of serving of the Section 7 notice.

7. This Court has carefully considered the rival submissions and also considered the materials placed before it.

8. In the light of the submission of the learned standing counsel appearing for respondents 1 to 3, the third respondent

once again shall serve notice under Section 7 of the Tamil Nadu Land Encroachment Act, 1905 upon the petitioner within a period of two weeks from the date of receipt of a copy of this order and on receipt of the same, the petitioner is permitted to submit a detailed reply by enclosing relevant and authenticated documents within a further period of two weeks. On receipt of the same, the third respondent is directed to consider the same on merits and in accordance with law within a period of three weeks thereafter and till such time, the respondents shall defer further decision to dispossess the petitioner from the land in question.

The writ petition stand disposed of accordingly. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

gpa

To

1. The District Collector
Erode District
Erode
- 2.The Tahsildar
Perundurai Taluk
Perundurai, Erode District
- 3.The Executive Officer
Chennimalai Town Panchayat
Chennimalai, Perundurai Taluk
Erode District

+1cc to Mr.R.Prabakar, Advocate sr.no.34615
+1cc to Government Pleader in sr.no.34738

W.P.No.8698 of 2018 &
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