

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 19.09.2018
CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

W.P.No.24730 of 2018 and
WMP Nos.28752 & 28753 of 2018

1.S.Rajasekar
2.S.Hemalatha

...Petitioners

-vs-

1.The District Collector,
Thiruvallur District,
Thiruvallur.

2.The Tahsildar,
Maduravoyal Taluk,
Maduravoyal,
Chennai - 600 095.

3.The Revenue Inspector,
Maduravoyal Taluk,
Maduravoyal.

..... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, calling for the records of the proceedings Na.Ka.No.1881/2018/A1, dated 27.07.2018, issued by the 2nd Respondent/Tahsildar, Maduravoyal, Chennai, rejecting the petitioners' appeal dated 16.07.2018 and consequential notice Na.Ka.No.2345/2018/A1 issued by the 2nd Respondent/Tahsildar Maduravoyal dated 30.07.2018 issued under Section of 6 of the Tamil Nadu Encroachment Act, quash the same.

For Petitioners : Mr.S.Giridharan
For Respondents : Mrs.P.Rose Kamalam
Government Advocate

O R D E R

[Order of the Court was delivered by
K.K.SASIDHARAN, J.]

The challenge in this writ petition is to the final order under Section 6 of the Land Encroachment Act, 1905, directing the petitioners to remove the encroachment stated to have been made in respect of the property in S.No.64, Thundalam Village, Maduravoyal Taluk, Thiruvallur District.

2. The order in question was passed after giving an opportunity to the petitioners to submit their response. The order under challenge in this writ petition is an appealable one. It is always open to the petitioners to take up all the contentions before the Appellate Authority constituted under Section 10 of the Land Encroachment Act, 1905. The petitioners have not made any specific reason to overcome the statutory remedy available to them. We are therefore of the view that the petitioners must avail the alternative remedy available to them.

3. We give liberty to the petitioners to file an appeal against the order dated 27 July 2018 before the appropriate authority constituted under Section 10 of the Land Encroachment Act. In case, any such appeal is filed within a period of 15 days' from today along with an application for interim relief, the application for interim relief shall be considered by the Appellate Authority at the first instance and appropriate orders should be passed on merits and as per law. Status quo as on today shall be maintained till orders are passed by the Appellate Authority in the application for interim relief. This order of status quo would not give a right to the petitioners to put up construction in the property in question.

4. The writ petition is disposed of with the above direction. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

1.The District Collector,
Thiruvallur District, Thiruvallur.

2.The Tahsildar,
Maduravoyal Taluk,
Maduravoyal, Chennai - 600 095.

3.The Revenue Inspector,
Maduravoyal Taluk, Maduravoyal.

+1cc to M/s.S.Giridharan, Advocate SR.NO.64760
+1cc to Government Pleader SR.NO.65509

sm:20.9.2018