

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 14.06.2018

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

WP.No.14669 of 2018 and WMP No.17321 of 2018

D.Rajeshwari

Petitioner

Versus

- 1.The District Collector
Chennai District,
Chennai.
- 2.The Tahsildar,
Guindy Taluk,
Chennai 600 032.
- 3.The Assistant Executive Engineer,
Tamil Nadu Electricity Board (TANGEDCO),
Guindy Estate,
Chennai 600 032.
- 4.The Executive Engineer,
Zone XIII,
Greater Chennai City Municipal Corporation,
Chennai.
- 5.The Inspector of Police,
J3 Police Station,
Guindy, Chennai 600 032.

... Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus forbearing the respondents 2 to 5 herein from any manner evicting or interfering with the petitioner's possession in the land measuring 3 cents comprised in T.S.No.4, Block No.3, situated at No.12B, Nagireddy Garden, Ekkaduthangal, Chennai - 600 032 pending the appeal filed by the petitioner dated 21.05.2018 on the file of the 1st respondent against the order of the 2nd respondent dated 17.05.2018.

For Petitioner : Mr.Venkatasamy Babu

For Respondents : Mr.A.N.Thambidurai,
Special Government Pleader
for R1, R2 and R5
Mr.P.R.Dhilip Kumar for R3
Mr.K.Sounthararajan
Standing Counsel for R4

ORDER

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

By consent, the writ petition is taken up for final disposal.

2 Mr.A.N.Thambidurai, learned Special Government Pleader accepts notice for respondents 1, 2 and 5, Mr.P.R.Dhilip Kumar, learned standing counsel accepts notice for 3rd respondent and Mr.K.Sounthararajan, learned Standing Counsel for 4th respondent.

3 The petitioner claims that she is in possession and enjoyment of 3 cents of land comprised in T.S.No.4, Block No.3, situated at No.12B, Nagireddy Garden, Ekkaduthangal, Chennai - 32 and was issued with Ration Card, Aadhar Card, Voters ID card and also provided with benevolence in the form of free bees issued by the Government and that apart, the property was also subjected to statutory levies.

4 The petitioner on an earlier occasion approached the 2nd respondent for issuance of patta in respect of land in her possession and since, the representation was not considered and disposed of, she filed WP No.28978 of 2017 to consider her representation and grant patta and the same was disposed of by this Court on 14.11.2017 by directing the 2nd respondent to consider and pass orders on the said representation. However, the 2nd respondent without understanding the scope and purport of the request made by the petitioner and without looking into the relevant materials had erroneously rejected the request. The petitioner would further aver that she has also been issued with notice under Sections 6 and 7 of the Tamil Nadu Land Encroachment Act, 1905 by the 2nd respondent and challenging the same, she filed a statutory appeal before the 1st respondent along with a petition for stay on 21.05.2018, and despite the pendency of the same, the 2nd respondent has issued show cause notice to the 3rd respondent as well as to the 4th respondent requesting them to disconnect the Electricity connection and also did necessary exercise to remove the encroachment and therefore, the petitioner is constrained to approach this Court by filing this writ petition.

5 Mr.Venkatasamy Babu, learned counsel appearing for the petitioner has invited the attention of this Court to the typed set of documents and would submit that despite the entertainment and pendency of the statutory appeal, the 2nd respondent is proceeding further to remove the alleged encroachment and not even marked a copy of the communication addressed to the respondents 3 and 4 and would further submit that the petitioner is likely to be dispossessed at any moment without following the due process of law. Since the petitioner belongs to a Economically Weaker Section of the Society, her possession and interest may be protected and prays for appropriate orders.

6 Per contra, the learned Special Government Pleader would submit that action is being taken to remove the encroachments strictly in accordance with law.

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

8. The fact remains that the petitioner made a challenge to the notices issued under Section 7 and 6 of the Tamil Nadu Land Encroachment Act, 1905 by filing an appeal under Section 10 of the said Act along with a petition for stay under Section 10 B of the said Act, before the 1st respondent on 21.05.2018 and the appeal is yet to be disposed of. This Court taking into consideration of the above fact and circumstances and without going into the merits of the claim projected by the petitioner, directs the 1st respondent or delegated Appellate Authority to entertain the said appeal along with the petition for stay, if the papers are otherwise in order and thereafter consider and dispose of the said appeal on merits in accordance with law within a period of six weeks from the date of entertainment of the appeal and till such time, the 2nd respondent shall defer further decisions to dispossess/evict the petitioner from the property in question. It is made clear that till the disposal of the appeal, either by the 1st respondent or the delegated Appellate Authority, the petitioner shall not create any third party right in respect of the site/superstructure in question and shall not alter the physical features also.

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

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

rka/sk

To

1.The District Collector
Chennai District,
Chennai.

2.The Tahsildar,
Guindy Taluk,
Chennai 600 032.

3.The Inspector of Police,
J3 Police Station,
Guindy, Chennai 600 032.

+1cc to Mr.Venkataswamy Babu, Advocate Sr.No.37612
+1cc to Mr.K.Soundararajan, Advocate Sr.No.38036
+1cc to Government Pleader SR.No.37889

SPD(CO)
sm:29.6.2018

WP.No.14669/2018



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