

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.06.2018

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
and
THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

WP.No.15460 of 2018
and WMP.No.18356 of 2018

P.Singaraval

...Petitioner

Vs.

1.The District Collector,
Collectorate, Salem District.

2.The District Revenue Officer,
Collectorate,
Salem District.

3.The Revenue Divisional Officer,
Attur Taluk, Salem District.

4.The Thasildar,
Attur Post & Taluk,
Salem District.

...Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari calling for the records relating the proceedings of Section 7 notice dated 31.09.2017 passed by the 4th respondent and quash the same and quash the same based on the petitioner representation dated 04.06.2018.

For Petitioner : Mr.P.Singaraval
For Respondents : Mr.R.Udhaya Kumar
Additional Government Pleader

ORDER

[Order of the Court was made by M.SATHYANARAYANAN, J.,]
By consent, the writ petition is taken up final disposal.

2. Mr.R.Udhaya Kumar, learned Additional Government Pleader accepts notice for respondents.

3. The petitioner would state that his father owned an ancestral property in S.No.311/5, Ramanickenpalayam Village, Attur Taluk, Salem District through a registered Settlement Deed dated 10.09.1982 bearing Doc.No.1786/1982 registered on the file of the Sub Registrar, Attur. That apart, the petitioner would further claims that his father is in possession and enjoyment of the property and that apart they also in possession and enjoyment of the adjacent land in S.No.358/3 which admeasuring to an extent of 1.03.5 hector and to their shock and surprise, notice under Section 7 of the Tamil Nadu Land Encroachment Act, 1905 has been issued by the 4th respondent and in respect of the same, the petitioner has submitted his representation dated 04.06.2018 and it is yet to be disposed of.

4. The learned counsel appearing for the petitioner would submit that as per the provisions of Tamil Nadu Land Encroachment Act, 1905, notice under Section 7 should be followed by notice under Section 6 of the said Act and after following due process of law, encroachments can be removed. Since the apprehension itself is that the petitioner is likely to be dispossessed without resorting to due process of law, he is constrained to approach this Court by filing this writ petition.

5. *Per contra*, Mr.R.Udhaya Kumar, learned Additional Government appearing for the respondents would submit that even as per his own admission, the petitioner and his father had encroached upon the Government Land and accordingly action has been taken under the Provisions of Tamil Nadu Land Encroachment Act, 1905 and representation submitted by the petitioner will be disposed of by following due process of law.

6. This Court taking into consideration the above facts and circumstances and without going into the merits of the claim projected by the petitioner directs the 3rd respondent to consider and dispose of the petitioner's representation dated 04.06.2018 on merits and in accordance

with law within a period of six weeks from the date of receipt of copy of this order and communicate the decision taken to the petitioner. It is made clear that till such time, the respondents shall defer further action in terms of the impugned notice dated 31.05.2018 and it is also further made clear that till the disposal of the representation by the 4th respondent, the petitioner shall not create any third party rights in respect of the site and superstructure in question and shall not alter the physical features also.

7. The writ petition is disposed of with the above observation. No costs. Consequently connected miscellaneous petition is closed.

[M.S.N.J] [G.K.I.J]
25.06.2018

Index : Yes/No
Internet: Yes/No
Speaking Order/Non Speaking Order

sk

सत्यमेव जयते

WEB COPY

To

1.The District Collector,
Collectorate, Salem District.

2.The District Revenue Officer,
Collectorate,
Salem District.

3.The Revenue Divisional Officer,
Attur Taluk, Salem District.

4.The Thasildar,
Attur Post & Taluk,
Salem District.



WEB COPY

M.SATHYANARAYANAN, J.
AND
G.K.ILANTHIRAIYAN,J.
sk



WP.No.15460 of 2018

WEB COPY

25.06.2018