

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 16.11.2018

Coram

THE HONOURABLE Mr. JUSTICE M.VENUGOPAL
AND
THE HONOURABLE Mrs. JUSTICE R.HEMALATHA

W.P.No.30266 of 2018 and
W.M.P.No.35317 of 2018

K.Basheera

.. Petitioner

Vs.

The Tahsildar,
Ponneri Taluk,
Ponneri, Thiruvallur District

..Respondent

Prayer: Petition filed under Article 226 of Constitution of India for issuance of a Writ of Ceriorari to call for the records relating to the Impugned Notice No.Na.Ka.3102/2018 dated 05.10.2018, that was served on 31.10.2018, issued by the Tahsildar, Ponneri, the Respondent herein, under Section 6 of the Tamilnadu Land Encroachment Act, 1905 and quash the same.

For Petitioner : Mr.J.Thilagaraj

For Respondent : Mr.J.Pothiraj
Special Government Pleader

O R D E R

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

Heard both sides. No counter is filed on behalf of the Respondent.

2. The Petitioner was issued with a Section 7 Notice dated 29.08.2018, as per Tamilnadu Land Encroachment Act, 1905 requiring her to offer her explanations. She submitted her explanation to the Respondent on 10.09.2018. In the said explanation, she had stated that she has no other house or property and if she is evicted from the subject property, her whole family would be rendered homeless and they would be thrown

to the street. Further, she had made a request to the Respondent to withdraw the Notice and to issue patta in her favour. She had submitted a representation to the District Collector, Thiruvallur on 10.09.2018.

3. A perusal of the contents of the objections / representation of the Petitioner dated 10.09.2018 shows that the Petitioner had put up a cement sheet roofing house to an extent of 1200 sq.ft., and she is in enjoyment of the said property with her family for the past 20 years. In this connection, the grievance of the Petitioner is that without considering her objection / representation dated 10.09.2018, the Respondent had issued a notice dated 05.10.2018 under Section 6 of the Tamilnadu Land Encroachment Act, 1905 and the said Authority had also not considered the contents of her objection / representation dated 10.09.2018 in an objective and fair manner. The Petitioner, as against the Impugned Notice dated 05.10.2018 issued by the Respondent had preferred an Appeal dated 02.11.2018 before the District Collector, Thiruvallur and admittedly, the same is pending as on date.

4. At this juncture, Mr.Pothiraj, Learned Special Government Pleader for the Respondent submits that the District Collector, Thiruvallur will dispose of the Appeal preferred by the Petitioner within the time to be determined by this Court.

5. Hence, this Court taking note of the fact that the Appeal dated 02.11.2018 is pending on the file of the District Collector, Thiruvallur, in furtherance of substantial justice and to prevent an aberration of justice, at this stage, simpliciter directs the District Collector, Thiruvallur to dispose of the same within a period of four weeks from the date of receipt of a copy of this Order.

6. Before passing final orders in Appeal, the District Collector, Thiruvallur shall provide necessary opportunity to the Petitioner to put forth her views and if she requires personal / Oral hearing, that may also be granted and final decision can be taken in the subject matter in issue. It is open to the Petitioner to submit necessary documents at her command and on production of the same before the District Collector, Thiruvallur, the said authority shall take into account of the same, consider her objections in an unbiased, fair and dispassionate manner and to pass orders in question within the time determined by this Court. The Petitioner is also directed to lend her assistance and unstinted co-operation to the District Collector, Thiruvallur in disposing of the Appeal preferred by her. Till the orders are passed in the subject matter in issue, the possession of the Petitioner from

the subject property shall not be displaced or disturbed.

With the aforesaid observations and directions, the Writ Petition is disposed of. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

ssd

To

1. The District Collector,
Thiruvallur District

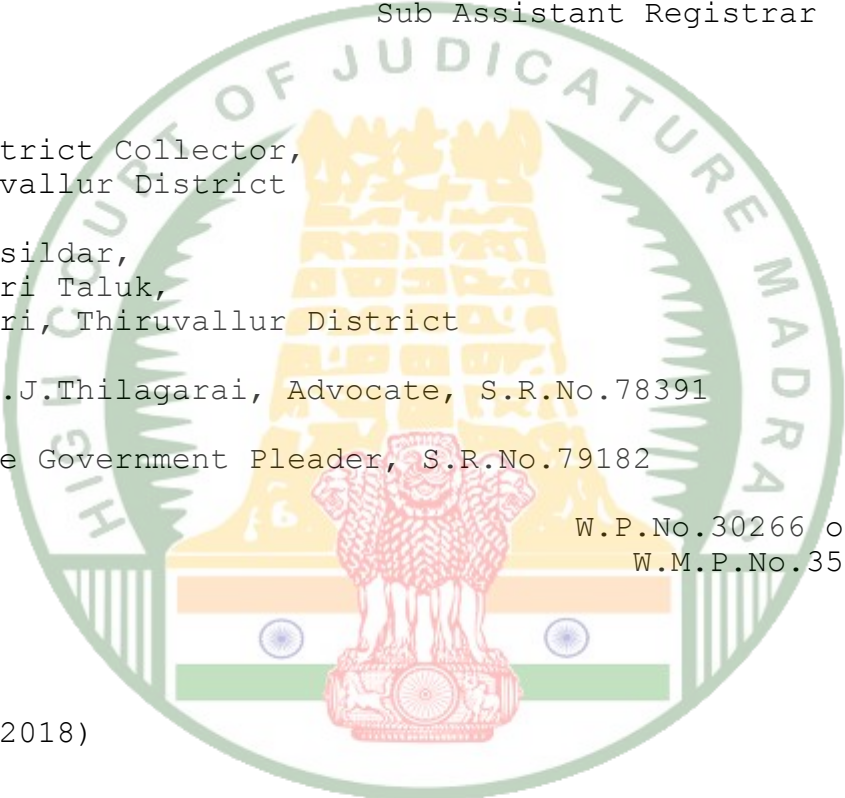
2. The Tahsildar,
Ponneri Taluk,
Ponneri, Thiruvallur District

+2cc to Mr.J.Thilagarai, Advocate, S.R.No.78391

+1cc to the Government Pleader, S.R.No.79182

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SSV(CO)
GSP(06/12/2018)



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