

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.12.2018

CORAM :

The Hon'ble Mrs.V.K.TAHILRAMANI, CHIEF JUSTICE

AND

The Hon'ble Mr.JUSTICE M.DURAI SWAMY

W.P. No.33182 of 2018
and W.M.P.Nos.38510 and 38511 of 2018

M/s.Kurunji Super Speciality Hospital
(P) Ltd., Rep. by its Director, T.K.Stalin... Petitioner

-vs-

1.District Collector,
District Collectorate
Salem District.

2.The Commissioner,
Salem Corporation,
Salem.

3.The Tahsildar,
Salem West, Suramangalam,
Salem.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Mandamus to forbear the respondents from demolishing the connecting bridge and the Culvert constructed for Kodivaikkal situated between S.No.97/4F and 98/8B across Odai Poramboke S.No.97/1 of Reddiyur Village, Salem Taluk and District, abutting the properties of the petitioner hospital comprised in S.Nos.97/4H, 4E2, 4G measuring Hectare 0.95-5 and comprised in S.No.98/8B measuring Hectare 0.8 of Reddiyur Village, Salem Taluk and District.

For Petitioner : Mr.AR.L.Sundaresan, Sr.Counsel
for Mr.K.Rajasekaran

For Respondents : Mr.S.Kamalesh Kannan
Govt. Advocate for RR 1 and 3
: Mr.K.Bhuvaneswari for R-2

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O R D E R

(Order of the Court was made by M.DURAISWAMY, J.)

The petitioner has filed the above writ petition to issue a writ of mandamus forbearing the respondents from demolishing the connecting bridge and the Culvert constructed for Kodivaikkal situated between S.No.97/4F and 98/8B across Odai Poramboke S.No.97/1 of Reddiyur Village, Salem Taluk and District, abutting the properties of the petitioner hospital comprised in S.Nos.97/4H, 4E2, 4G measuring Hectare 0.95-5 and comprised in S.No.98/8B measuring Hectare 0.8 of Reddiyur Village, Salem Taluk and District.

2.When the matter is taken up for hearing, the learned Government Pleader (I/c.) brought to the notice of this Court that a notice under Section 7 of the Land Encroachment Act, 1905, was issued on 29.11.2017 to the petitioner and thereafter, an order under Section 6 of the said Act dated 09.01.2018 was also passed.

3.The learned Senior Counsel appearing for the petitioner fairly admitted that the petitioner has got remedy by way of an appeal under Section 10 of the Land Encroachment Act. Though an order was passed as early as on 09.01.2018, the petitioner has not challenged the same by way of an appeal before the appellate authority till today.

4.When the petitioner has got an efficacious alternate remedy by way of an appeal before the appellate authority under Section 10 of the said Act, we are not inclined to entertain the present writ petition.

Accordingly, the writ petition is dismissed. However, we make it clear that the appellate authority shall decide the appeal to be filed by the petitioner on merits and in accordance with law uninfluenced by the dismissal of this writ petition. No costs. Consequently, W.M.P.Nos.38510 and 38511 of 2018 also stand dismissed.

Sd/-

Assistant Registrar (CS)

//True Copy//

Sub Assistant Registrar

sra

To

- 1.The District Collector,
District Collectorate
Salem District.
- 2.The Commissioner,
Salem Corporation,
Salem.
- 3.The Tahsildar,
Salem West, Suramangalam,
Salem.

+1 CC TO GOVERNMENT PLEADER SR.NO. 33182

W.P.No.33182 of 2018

A.SK(29/01/2019)