



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.03.2018

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MRS.JUSTICE R.THARANI

W.P. (MD) No.5008 of 2018

and

W.M.P. (MD) No.4993 of 2018

J.Arockia Raj

... Petitioner

-vs-

1. The District Collector,
Thoothukudi.

2. The Revenue Divisional Officer,
Kovilpatti,
Thoothukudi District.

3. The Tahsildar,
Vilathikulam Taluk,
Thoothukudi District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorari, calling for entire records of the impugned notice dated 30.01.2018 issued by the 3rd respondent under Section 6 of the Tamil Nadu Land Encroachment Act, 1905 and quash the same as illegal and arbitrary and consequently forbear the 3rd respondent to remove the encroachment in front of the petitioner's house comprised Door No.1/140 of South Street, Vembar Village & Post, Vilathikulam Taluk, Thoothukudi District till the disposal of the appeal preferred before the 1st respondent dated 07.03.2018.

For Petitioner : M/s.M.Laxmi Mahendraa

For Respondents : Mr.D.Muruganandam, AGP

O R D E R

(Order of the Court was made by T.S.SIVAGNANAM, J.)

Heard M/s.M.Laxmi Mahendraa, learned counsel appearing for the petitioner and Mr.D.Muruganandam, learned Additional Government Pleader for the respondents.

2.The petitioner is aggrieved by the order passed under Section 6 of the Tamil Nadu Land Encroachment Act, 1905. As against the impugned order, the petitioner has rightly filed an appeal before the first respondent under Section 10 of the Act.



The apprehension of the petitioner is that even before disposal of the appeal by the first respondent, he may be evicted from the property in question.

3. In our considered opinion, the petitioner need not have any apprehension, since the appeal before the first respondent is a statutory appeal and if the impugned order is given effect to, the appeal itself will become infructuous. Therefore, we dispose of this writ petition by directing the first respondent to consider the petitioner's appeal petition dated 07.03.2018 sent by speed post. Afford an opportunity of personal hearing to the petitioner and decide the appeal on merits and in accordance with law, within a period of three weeks from the date of receipt of a copy of this order. To facilitate the early disposal of the appeal i.e. within the time frame stipulated by this Court, the petitioner is directed to appear before the first respondent and submit a copy of the appeal petition along with the copy of this order. Till the appeal is disposed of, the impugned order passed under Section 6 of the Act dated 30.01.2018 shall be kept abeyance.

4. With the above direction, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar

To

1. The District Collector,
Thoothukudi.
2. The Revenue Divisional Officer,
Kovilpatti,
Thoothukudi District.
3. The Tahsildar,
Vilathikulam Taluk,
Thoothukudi District.

+1cc to Mr.M.Laxmi Mahendraa, Advocate Sr.No.53808

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VB/SV/MMS/SAR3/16/03/2018/2P/5C

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and

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