



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.04.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAI SWAMY  
AND  
THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P(MD)No.10137 of 2018

and

W.M.P(MD)Nos.9240 & 9241 of 2018

P.Marimuthu

... Petitioner

Vs.

1.The District Collector,  
Collectorate,  
Thoothukudi,  
Thoothukudi District.

2.The Tahsildar,  
Tahsildar Office,  
Srivaigundam,  
Thoothukudi District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the impugned order passed by the second respondent herein in his proceedings in Na.Ka.Aa7-430-2015, dated 16.03.2018 signed on 21.03.2018 (Eviction order) and quash the same as illegal and further direct the respondents herein to conduct a detailed enquiry as per the provisions of Tamil Nadu Land Encroachment Act, 1905 by serving notice to the petitioner herein (Landlord) and pass necessary orders in accordance with law.

|                 |                                                      |
|-----------------|------------------------------------------------------|
| For Petitioner  | : Mr.V.Meenakshi Sundaram                            |
| For Respondents | : Mr.M.Jeya Kumar,<br>Additional Government Pleader. |

ORDER

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

The petitioner has filed the above writ petition to issue a Writ of Certiorarified Mandamus, to call for the records of the impugned order passed by the second respondent, dated 16.03.2018 signed on 21.03.2018 and quash the same and further direct the respondents to conduct a detailed enquiry as per the provisions of Tamil Nadu Land Encroachment Act, 1905 by serving notice to the petitioner and pass necessary orders in accordance with law.



2.It is the case of the petitioner that the second respondent had passed the impugned order, dated 16.03.2018 without issuing any notice to the petitioner, who is the landlord.

3.Mr.V.Meenakshi Sundaram, learned counsel appearing for the petitioner submitted that even Section 7 Notice of the said Act was issued only to the tenants and not to the petitioner/landlord. That apart, the learned counsel also submitted that challenging Section 7 Notice of the said Act, the petitioner has filed an appeal, which was presented on 04.04.2018, along with a stay petition under Section 10(b) of the said Act. Further, the learned counsel submitted that the first respondent has not passed any order in the stay petition so far.

4.During the pendency of the appeal, the second respondent has passed an order under Section 6 of the said Act in the name of the tenants inspite of the fact that the petitioner/landlord has challenged Section 7 Notice of the said Act before the first respondent by way an appeal. Since the stay petition filed by the petitioner is pending before the first respondent in the appeal filed by him, we are of the view that the first respondent should be directed to dispose of the stay petition within a time frame and till such time, the petitioner's possession should be protected.

5.The learned counsel appearing for the petitioner submitted that the petitioner is going to file an appeal as against the impugned order, dated 16.03.2018 before the first respondent.

6.Mr.M.Jeyakumar, learned Additional Government Pleader taking notice for the respondents submitted that the first respondent may be directed to dispose of the stay petition within a time frame in accordance with law.

7.Having regard to the submissions made by the learned counsel on either side, we direct the first respondent to dispose of the stay petition filed by the petitioner in the appeal presented by him on 04.04.2018 within a period of six weeks from the date of receipt of a copy of this order. Till such time, the respondents are directed to maintain status quo with regard to the petitioner's possession over the properties.

8.With these observations, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(Crl.Side)

/True Copy/



To

1.The District Collector,  
Collectorate,  
Thoothukudi,  
Thoothukudi District.

2.The Tahsildar,  
Tahsildar Office,  
Srivaigundam,  
Thoothukudi District.

+1CC to Mr.D.Nallathmbi, Advocate, SR.No. 64424

+1CC to the Special Government Pleader SR.No.64776

W.P (MD) No.10137 of 2018  
28.04.2018

ps

AM/SKN RSK/SAR 4/21.05.2018/3P/5C