



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 08.11.2018

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.22512 of 2018

G.Balakrishnan

..Petitioner

Vs.

1.The District Collector,
Thanjavur-613 001.

2.The Revenue Inspector,
Thiruchittrambalam,
Pattukottai Taluk,
Thanjavur District.

3.The Tahsildar,
Taluk Office,
Pattukottai.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, to consider the petitioner's representation dated 09.09.2018 to take action against the respondents 2 and 3 who are trying grab the petitioner's property illegally stating that the property belong to the government.

For Petitioner

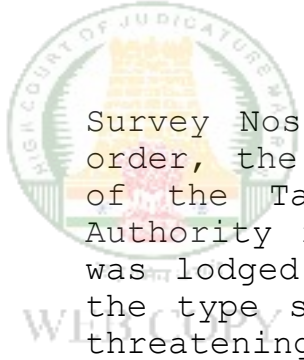
: Mr.M.Madhuprakash

For Respondents

: Mr.M.Rajarajan
Government Advocate

ORDER

The second respondent issued notice under Section 7 of the Tamil Nadu Land Encroachment Act, 1905 calling upon the writ petitioner herein to remove the compound wall located in Survey No.73/5B in Mathanpattavur Village. The writ petitioner submitted a reply dated 16.08.2018 contending that he is not an encroacher and that he is in occupation of his private patta land alone. After receiving the said objection dated 16.08.2018, the third respondent herein passed final order dated 24.08.2018 under Section 6 of the Tamil Nadu Land Encroachment Act. The said order passed under Section 6 of the said Act refers to a cart-track running across



Survey Nos.73/4B, 73/5B, 73/6B and 73/7B. Aggrieved by the said order, the writ petitioner herein filed an appeal under Section 10 of the Tamil Nadu Land Encroachment Act before the Appellate Authority namely, the District Collector, Thanjavur. This appeal was lodged on 09.09.2018. The postal receipt is also enclosed in the type set of papers. Since the Revenue Authorities have been threatening to dispossess the writ petitioner, even though the statutory appeal is still pending before the District Collector, the present Writ Petition has been filed with a prayer for directing the consideration of his appeal, dated 09.09.2018.

2. When the matter was came up for hearing this morning, this Court paused over the matter and called upon the Government Advocate to point out the stage of the statutory appeal filed by the petitioner herein.

3. When the matter was taken up in the afternoon, the reply from the Government's side was that the appeal papers are yet to be traced.

4. The apprehension of the petitioner is that he may be dispossessed in the meanwhile. This Court, therefore, thought it appropriate to test the validity of the order passed under Section 6 of the Act itself. It is evident on the very face of it that the petitioner's objections have been casually brushed aside by the Tahsildar, Pattukottai. In other words, the order dated 24.08.2018 passed under Section 6 of the Act, is a non-speaking order. Section 6(2) of the Act categorically mandates that the authority will have to hold at least a summary enquiry into the facts of the case. In this case, no such enquiry has been conducted. Thus, there is a clear violation of statutory mandate enshrined in Section 6(2) of the Act. Since the illegality committed by the third respondent is apparent on the face of the record, even though this Writ Petition is only for the Writ of Mandamus for directing the Appellate Authority, namely, the District Collector, Thanjavur, to dispose of the statutory appeal, I am of the view that the order dated 24.08.2018 passed by the Tahsildar, Pattukottai under Section 6 of the Tamil Nadu Land Encroachment Act, is liable to be set aside and the relief sought for by the writ petitioner is moulded.

5. Accordingly, this Writ Petition is allowed. The Tahsildar, Pattukottai, is of-course at liberty to pass orders afresh in accordance with law. No costs

Sd/-

Assistant Registrar(P&A)

/True Copy/



To

1.The District Collector,
Thanjavur-613 001.

2.The Revenue Inspector,
Thiruchitttrambalam,
Pattukottai Taluk,
Thanjavur District.

3.The Thasildar,
Taluk Office,
Pattukottai.

+3 CCs TO Mr.M.Madhuprakash, ADVOCATE IN SR No.94597.
+1 cc to Special Government Pleader, SR.No.94616.

RMK

DS SV SAR2 12 11 2018 3P 8C

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08.11.2018.