



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.10.2018

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P. (NPD) (MD) .No.2061 of 2018

and

C.M.P. (MD) .No.9139 of 2018

G.Rajesh ... Revision Petitioner/Petitioner/Appellant

Vs

The Estate Officer (Commissioner)

Nagercoil Municipality,

Nagercoil,

Kanyakumari District. ... Respondent/Respondent/Respondent

PRAYER : Petition filed under Article 227 of the Constitution of India to set aside the order dated 10.09.2018 passed in I.A.No.223 of 2018 in A.S.No.103 of 2018 on the file of the District Judge, Kanyakumari at Nagercoil and allow the present Civil Revision Petition.

For Petitioner : Mr.J.Anandhavalli

For Respondent : Mr.P.Athimoola Pandian

ORDER

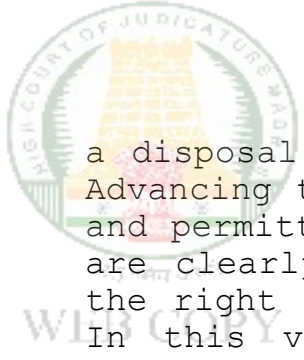
The revision petitioner herein suffered an order under Section 5 of Tamil Nadu Public Premises Act, 1975. Questioning the same, the revision petitioner filed an appeal before the District Judge under Section 9 of the said Act. An interim order of status quo was originally granted. Thereafter at the instance of the respondent municipality, the hearing was advanced. An Advocate Commissioner was appointed. The respondent was also permitted to proceed under Section 6 of the Act and give necessary notice in that regard. Challenging the aforesaid order of modification made on 10.09.2018, this Civil Revision Petition came to be filed.

2.Heard the learned counsel on either side.

3.As rightly contended by the learned counsel appearing for the revision petitioner, the right of first appeal is a valuable right since it is a continuation of the original proceeding. In the very nature of things, the interim order for preserving the status quo must be granted when a first appeal is filed. If during the pendency of the first appeal there is no effective interim order, the entire proceedings will only be an exercise in futility and infructuous in nature.

<https://hcservices.ecourts.gov.in/hcservices/>

4.In this case, having granted an interim order in the first instance, the learned District Judge, Nagercoil, ought to have given



a disposal to A.S.No.103 of 2018 filed by the revision petitioner. Advancing the hearing and modifying the earlier order of status quo and permitting the authority to proceed under Section 6 of the Act, are clearly erroneous and uncalled for. They virtually take away the right of first appeal given to the revision petitioner herein. In this view of the matter, the order impugned in this Civil Revision Petition is set aside.

5.Taking into account of the facts and circumstances, this Court transfers A.S.No.103 of 2018 from the file of the learned Principal District Judge, Kanyakumari at Nagercoil to the file of the learned Additional District Judge, Nagercoil. In view of the setting aside of the order impugned in this Civil Revision Petition, the status quo that obtained when A.S.No.103 of 2018 was filed, will have to be restored. If the respondent reports compliance of the direction now given, the learned Additional District Judge, Nagercoil, shall dispose of the appeal within a period of four weeks thereafter.

6.Accordingly, this Civil Revision Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/
Assistant Registrar(CO)

/True copy/

Sub Assistant Registrar(CS-I)

To

1.Principal District Judge,
Kanyakumari at Nagercoil.

2.Additional District Judge,
Nagercoil.

+1cc to Mr.J.ANANDHAVALLI, Advocate, SR.No. 90038

C.R.P. (NPD) (MD) .No.2061 of 2018
and
C.M.P. (MD) .No.9139 of 2018
10.12.2018

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