

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.09.2019

CORAM :

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

AND

The Hon'ble Mr.JUSTICE M.DURAI SWAMY

W.P.No.26563 of 2019

B.Kalaiselvi

.. Petitioner

-vs-

1.The District Collector,
Kancheepuram District,
Kancheepuram.

2.The District Collector,
Chennai District,
Chennai.

3.The Tahsildar,
Sholinganallur Taluk,
Sholinganallur,
Chennai-600 119.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Mandamus forbearing the respondents from evicting the petitioner from the house and premises measuring about 3 cents, bearing Door No.2/186, Hanuman Colony, Injambakkam, Chennai-600 115, situated in Survey No.234/2A of Injambakkam Village, Sholinganallur Taluk, Kancheepuram District, without disposing of the appeal and the stay petition pending with the respondents 1 and 2 under Section 10 and 10-B of the Tamil Nadu Land Encroachment Act, 1905.

For Petitioner

: Mr.K.S.Kumar

For Respondents

: Mr.V.Jayaprakash Narayanan
Government Pleader

ORDER

(Order of the Court was made by The Hon'ble Chief Justice)

Heard Mr.K.S.Kumar, learned counsel for the petitioner and Mr.V.Jayaprakash Narayanan, learned Government Pleader for the respondents.

2. The case of the petitioner is that she had received a notice under Section 7 of the Tamil Nadu Land Encroachment Act, 1905 and thereafter, she had also received notice under Section 6 of the said Act. The further case of the petitioner is that she had preferred appeal against the notice issued under Section 6 of the said Act on 26.12.2018 and in the said appeal, she had also filed application for stay on 25.03.2019.

3. The grievance of the petitioner is that though the appeal and the stay application are pending till today, the authorities are taking action to evict her from the premises i.e., Door No.2/186, Hanuman Colony, Injambakkam, Chennai-600 115 situated in Survey No.234/2A of Injambakkam Village, Sholinganallur Taluk, Kancheepuram District.

4. We have perused the copy of appeal, which according to the petitioner, has been preferred against the notice issued under Section 6 of the said Act and it is noticed that the petitioner has not challenged the notice issued under Section 6 of the Act and in the appeal preferred by her, the petitioner has only challenged the notice issued under Section 7 of the said Act. There is no provision for preferring appeal against the notice issued under Section 7 of the said Act and appeal can only be preferred against the notice issued under Section 6 of the said Act. In this view of the matter, it would be open to the petitioner to prefer an appeal against the notice issued under Section 6 of the said Act.

5. As there is an efficacious alternate remedy of preferring an appeal under Section 10 of the said Act against the notice issued under Section 6 of the said Act, we are not inclined to entertain the writ petition and, therefore, the same is disposed of accordingly. No costs. Consequently, W.M.P.No.25934 of 2019 is closed.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

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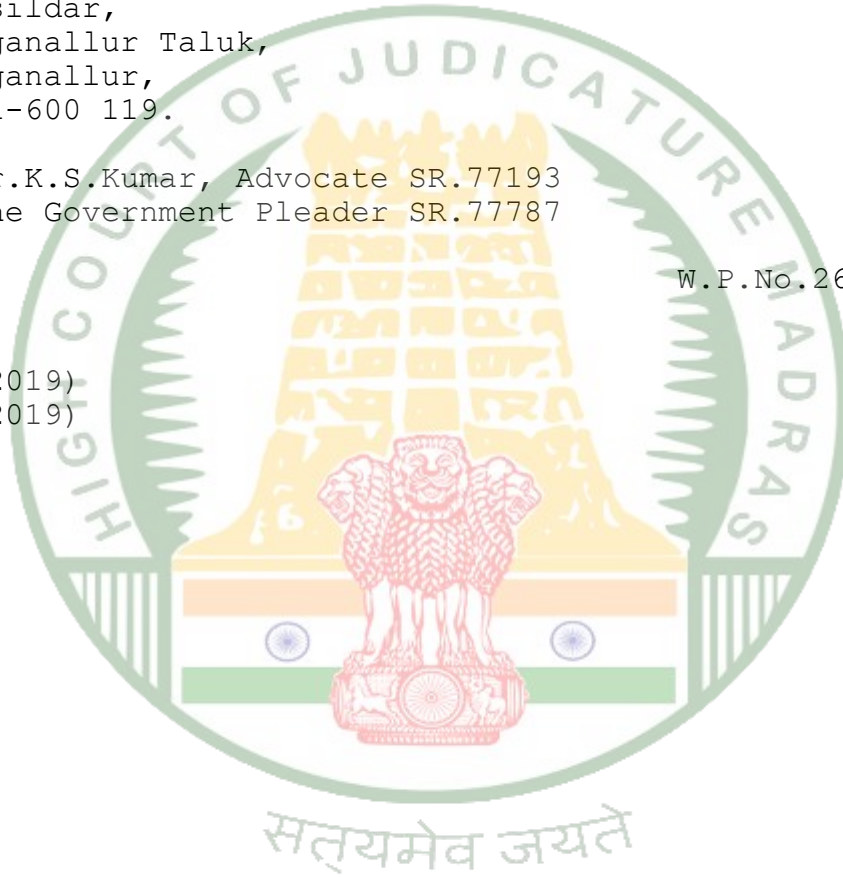
To:

- 1.The District Collector,
Kancheepuram District,
Kancheepuram.
- 2.The District Collector,
Chennai District,
Chennai.
- 3.The Tahsildar,
Sholinganallur Taluk,
Sholinganallur,
Chennai-600 119.

+1cc to Mr.K.S.Kumar, Advocate SR.77193
+1cc to the Government Pleader SR.77787

W.P.No.26563 of 2019

GP(CO)
CB(17/10/2019)
CB(08/11/2019)



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