

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.09.2019

CORAM :

THE HON'BLE DR.VINEET KOTHARI, ACTING CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.No.28681 of 2019

Mahalakshmi

.. Petitioner

-vs-

1.The District Revenue Officer,
Tambaram,
Kancheepuram.

2.The Tashildar,
Tambaram,
Kancheepuram.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorarified Mandamus to call for the records relating to the Notice issued under Section 6 of the Land Encroachment Act 1905 (Act 3 of 1905) issued by 2nd respondent dated 29.07.2019 and Section 7 of the Land Encroachment Act 1905 (Act 3 of 1905) dated 09.07.2019 issued by the 1st respondent in respect of house property situated in Survey No.398/5 of Government poramboke land and to quash the same as illegal and unconstitutional and for a further direction to the first respondent to consider the petitioner appeal/representation dated 17.08.2019 on merits.

For Petitioner : Ms.S.Deepika

For Respondents : Mr.S.Kamalesh Kannan
Government Advocate

ORDER

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

The petitioner, Mahalakshmi, wife of Late Devaraj, Malai Road, Nungampalayam Main Road, Nungampayalam Village, Tambarak Taluk, Kancheepuram District, has filed this petition against the notice dated 29.7.2019 issued under Section 6 of the Tamil Nadu Land Encroachment Act, 1905 (for brevity, "the Act") by the second respondent/Tahsildar, Tambaram, Kancheepuram, with respect to the proposed action to remove the encroachment in Survey No.398/5, which is described to be Tharisu Poramboke, to an extent of 0.69.0 Acres (940 Sq.Ft.). As per the notice issued under Section 6 of the Act by the second respondent/Tahsildar, the said land is sought to be used for commercial purpose.

2. The learned Government Advocate, Mr.S.Kamalesh Kannan, upon instructions of Mr.D.Sivachidambaram, Revenue Assistant, Tambaram Taluk Office, Kancheepuram District, present in Court, submitted that the alleged encroachment has been removed by the respondent authorities on 18.9.2019. The Officer present in Court has also made an endorsement to that effect in the bundle.

3. The learned counsel for the petitioner disputes the above said submission.

4. Having heard the learned counsel, we are of the opinion that since the regular remedy lies under the provisions of the said Act before the District Collector under Section 10 of the Act against the notice issued by the second respondent/Tahsildar under Section 6 of the Act, we are not inclined to interfere with the notice issued under Section 6 of the Act in this writ petition. Therefore, giving liberty to the petitioner to approach the District Collector by way of appeal under Section 10 of the Act, we dispose of this case. If the appeal is filed within thirty days from today, the learned District Collector will decide the same in accordance with law after giving opportunity to the petitioner.

With these observations, the writ petition is disposed of. No costs. Consequently, W.M.P.No. 28441 of 2019 is closed.

Sd/-
Assistant Registrar(insp cell)

//True Copy//

Sub Assistant Registrar

sasi

To:

1.The District Revenue Officer,
Tambaram,
Kancheepuram.

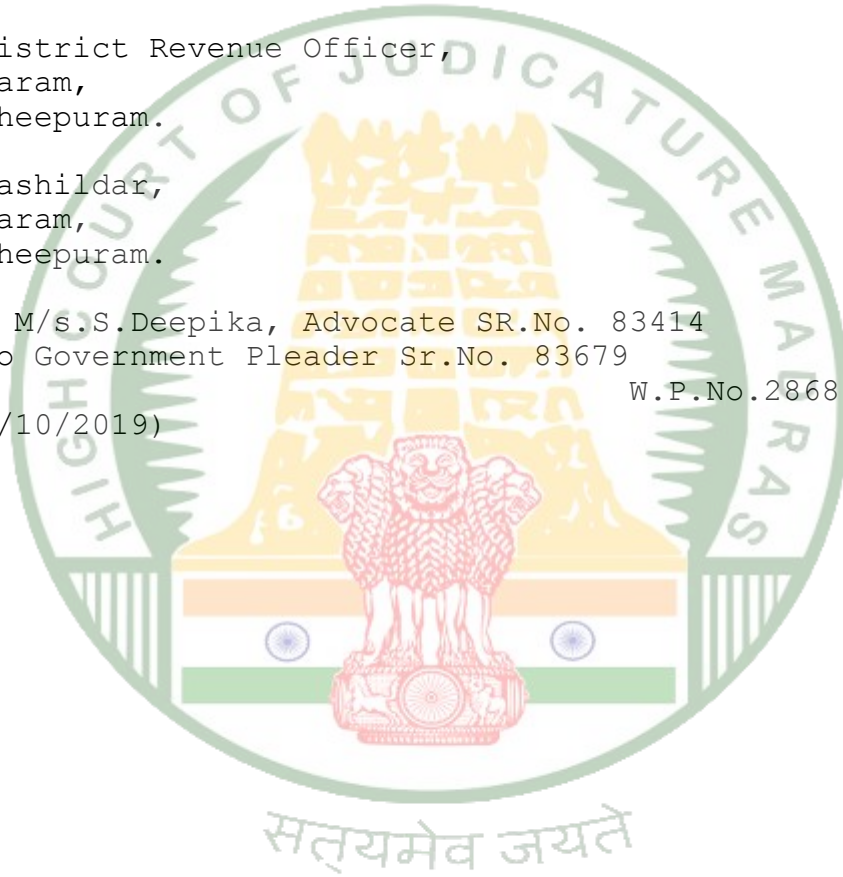
2.The Tashildar,
Tambaram,
Kancheepuram.

+1cc to M/s.S.Deepika, Advocate SR.No. 83414

+1 cc to Government Pleader Sr.No. 83679

W.P.No.28681 of 2019

A.SK(09/10/2019)



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