

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 14.10.2019

CORAM

THE HONOURABLE DR.JUSTICE VINEET KOTHARI,
THE ACTING CHIEF JUSTICE
AND
THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.Nos.28998 & 29000 of 2019
and
W.M.P.Nos.28760 & 28766 of 2019

Mrs.Kalaivani Petitioner in W.P.28998/2019

Mrs.C.Malliga Petitioner in W.P.29000/2019

/Versus/

1. The District Collector,
O/o. the District Collector,
Erode.
2. The Tahsildar,
Andiyur Taluk, Erode District,
Erode.
3. The Executive Officer,
Ammapettai Town Panchayat,
Erode District, Erode.
4. Mr.A.P.Siddaiyah ..Respondents in both the petitions

Prayer: Writ Petitions filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorari and call for the record on the file of the 3rd respondent pertaining to Eviction proceedings in Na.Ka.No.265/2018 dated 23.9.2019 and quash the same as illegal and arbitrary.

For Petitioners : Mr.Adinarayana Rao

For RR1 to 3 : Mr.V.Jayaprakash Narayanan,
Government Pleader

COMMON ORDER

(Order of the court was made by Dr.VINEET KOTHARI, ACJ.)

The present Petitions have been filed against the order dated 23.9.2019 passed by the Executive Officer of the

Ammapettai Town Panchayat seeking to remove the alleged encroachment of the Petitioners in S.No.266/1 of public road admeasuring 0.00.20 sq.mts.

2. Learned counsel for the Petitioners submitted that this proceedings has been initiated on the complaint lodged by Respondent No.4, A.P.Siddaiyah.

3. The Tamil Nadu Land Encroachment Act, 1905 provides for an alternative mechanism as against the final order passed under Section 6 of the said Act. An appeal lies to the District Collector from any decision or the order passed by the Tahsildar or Deputy Tahsildar under Section 10 of the Act and Section 10-A provides for a Revision and Section 10-B provides for interim stay also during the pendency of the Appeal or Revision.

4. In view of regular alternative remedy available to the petitioners, the present Writ Petitions under Article 226 of the Constitution of India cannot be entertained as the Petitioners have got adequate alternative remedy under the law.

5. The learned counsel for the Petitioners has also submitted that the Petitioners have already submitted a representation before the District Collector on 23.9.2019 itself, but the same is only in the form of representation and not an Appeal under Section 10 of the said Act. The Petitioners do not even appear to have moved any stay application so far before the District Collector.

6. In view of the said alternative remedy available to the Petitioners, we relegate the Petitioners back to the District Collector to file appropriate stay petition with Memo of Appeal under Section 10 of the Act and press the same in accordance with law after impleading Respondent No.4 also in such Appeal. The District Collector concerned is expected to hear and decide the Appeal in accordance with law and he may consider the stay Application also if it is filed, expeditiously, preferably within a week of filing of the same and if the same is filed within two weeks from today, no coercive steps shall be taken against the Petitioners for a period of three weeks from today without specific leave of the District Collector concerned. The Writ Petitions are disposed of accordingly. No costs. The connected Miscellaneous Petitions are closed.

ssk

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

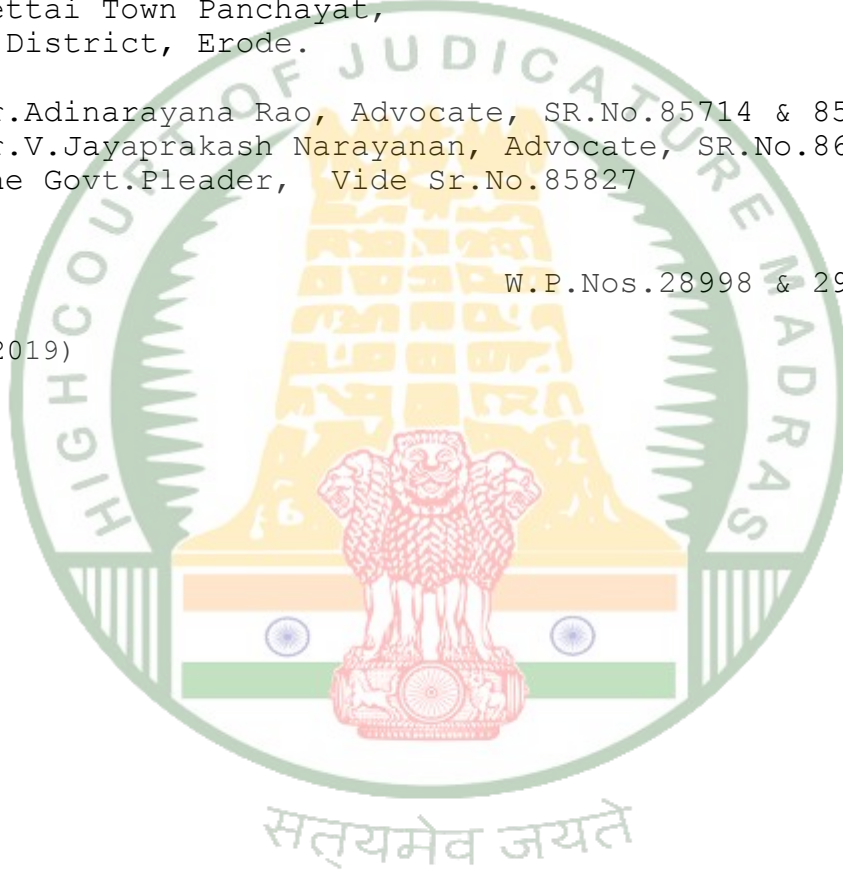
To

1. The District Collector,
O/o. the District Collector,
Erode.
2. The Tahsildar,
Andiyur Taluk, Erode District,
Erode.
3. The Executive Officer,
Ammapettai Town Panchayat,
Erode District, Erode.

+2cc to Mr.Adinarayana Rao, Advocate, SR.No.85714 & 85715
+1cc to Mr.V.Jayaprakash Narayanan, Advocate, SR.No.86195
+1cc to the Govt.Pleader, Vide Sr.No.85827

W.P.Nos.28998 & 29000 of 2019

Kak(18/10/2019)



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