

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 06.11.2019

CORAM

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN
AND
THE HONOURABLE MR. JUSTICE N.SESHASAYEE

WP.No.31263 of 2019
and W.M.P.No.31410 of 2019

Mrs.A.Kalamani .. Petitioner
Versus

1.The District Collector,
O/o.the District Collector,
Collectorate,
Collector Office Road,
Villupuram-605602.

2.The Block Development Officer,
O/o.The Block Development Officer,
Panchayat Union,
Chinnasalem Taluk,
Villupuram District.

.....Respondents

PRAYER:- Writ petition filed under Article 226 of the Constitution of India prays to issue a Writ of Mandamus directing the 1st respondent to consider and dispose of the statutory stay application dated 31.10.2019 filed under Section 10 B of the Tamil nadu Land Encroachment Act, 1905 filed along with the statutory appeal dated 31.10.2019 under Section 10 of the Tamil Nadu Land Encroachment Act, 1905, as against the notice in Na.Ka.No.Aa1/2186/2014 dated 22.10.2019 issued by the 2nd respondent, within a time frame and till such time to direct the 2nd respondent to refrain from evicting the petitioner in pursuance to its notice in Na.Ka.No.Aa1/2186/2014 dated 22.10.2019.

For Petitioner : Mr.N.Muralikumaran

For Respondents: Mr.V.Jayaprakash Narayanan
Government Pleader

ORDER

[Order of the Court was made by M.SATHYANARAYANAN,J.,]

The petitioner claims to be in possession of land admeasuring to an extent of 86 sq.m, (925.36 sq.ft) in S.No.338/5, Kugaiyur Village, Chinnasalam Taluk, Villupuram District and it forms part of the larger extent of land admeasuring to an extent of 38.67 acres in S.No.192/2 of the same Village and for resurvey and resettlement, it has been classified as 'Natham'. It is also the claim of the petitioner that he has put up a superstructure consisting of Ground and First floor and remain in possession for so long and the properties are also subjected to statutory levies. The grievance now expressed by the petitioner is that alleging he has encroached upon Government land, the 2nd respondent had issued a notice under Section 6 of the Tamil Land Encroachment Act, 1905 on 22.10.2019 stating among other things that he is in unauthorised possession and occupation of Natham land in S.No.338/5 admeasuring to an extent of 00046 Hects along with superstructure and Natham well. The petitioner, challenging the legality of the said notice, also filed an appeal and submitted the same in person to the office of the 1st respondent on 01.11.2019 and also sent it by a Registered post.

2. The learned counsel appearing for the petitioner would submit that in the light of the fact that the land in question has been classified as 'Grama Natham' (Village site), the provisions of the Tamil Nadu Land Encroachment Act, 1905 cannot be made applicable and that apart, the delay as to the decision taken to proceed further in the said Act, has also been put to challenge in the form of appeal filed before the appellate authority along with a petition for stay and prays for early hearing of the stay petition filed along with the statutory appeal and till such time prays for stay of all further proceedings.

3. Heard the submission of Mr.V.Jayaprakash Narayanan, learned Special Government Pleader who accepts notice on behalf of respondents 1 and 2.

4. This Court, taking into consideration the limited scope of prayer sought for by the petitioner and without going into the merits of the claim projected by the writ petitioner either in his representation or in this writ petition, directs the 1st respondent or delegated authority to entertain the statutory appeal if the papers are otherwise in order and give a disposal to the petition for stay filed along with the said appeal, within a period of three weeks from the date of receipt of a

copy of this order and communicate the decision taken, to the petitioner and till such time, the 2nd respondent shall defer further decision in terms of notice under Section 6 of the Act 3 of 1905 dated 22.10.2019. It is also made clear that the petitioner till the disposal of the appeal petition by the 1st respondent or the delegated authority shall not create any third party right in respect of the land and superstructure in question.

5. In the result, the writ petition is disposed of. No costs. Consequently connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(Insp cell)

//True Copy//

Sub Assistant Registrar

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To

1.The District Collector,
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Collectorate,
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Villupuram-605602.

2.The Block Development Officer,
O/o.The Block Development Officer,
Panchayat Union,
Chinnasalem Taluk,
Villupuram District.

+1cc to M/s. Megam Law Firm, Advocate SR.92038

WP.No.31263 of 2019

VSNII (CO)
CB(29/11/2019)

सत्यमेव जयते

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