

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.01.2019

CORAM :

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

AND

The Hon'ble Mr.JUSTICE M.DURAI SWAMY

W.P. No.30563 of 2018

Kalpana

.. Petitioner

-vs-

1.The District Collector,
Dharmapuri District,
Collectorate,
Dharmapuri - 636 705.

2.The Revenue Divisional Officer,
Salem Bypass, Periyar Nagar,
Harur, Dharmapuri District- 636 903.

3.The Tahsildar,
Pappireddipatti Taluk,
Dharmapuri District-636 905.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorarified Mandamus calling for the records relating to notices dated 08.12.2017 and 09.01.2018 issued by the 3rd respondent to the petitioner under Section 7 and 6 of the Tamil Nadu Land Encroachment Act, 1905 in connection with the land measuring an extent of 0.40.0 hectares in S.No.36/3 in Devarajapalayam Village, Pappireddipatti Taluk, Dharmapuri District and quash the same as barred by limitation and violative of the fundamental rights of the petitioner under Articles 14 and 21 of the Constitution of India and consequently, direct the 3rd respondent to issue patta for the said land in the name of the petitioner.

For Petitioner

: Mrs.C.Uma

For Respondents

: Mr.V.Jayaprakash Narayanan
Government Pleader (i/c)

ORDER

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

Heard the learned counsel for the petitioner and the learned Government Pleader (i/c), who takes notice for the respondents.

2. The challenge in the writ petition is to the final order passed under Section 6 of the Tamil Nadu Land Encroachment Act, 1905. The land in question is situated in S.No.36/3 measuring an extent of 0.40.0 hectares in Devarajapalayam Village, Pappireddipatti Taluk, Dharmapuri District.

3. Admittedly, the order passed under Section 6 of the Tamil Nadu Land Encroachment Act, 1905 is appealable under Section 10 of the said Act. There is also a provision for stay of further proceedings which is provided under Section 10-B of the said Act. In view of the same, we do not propose to entertain the present writ petition.

4. We give liberty to the petitioner to file an appeal before the appropriate authority under Section 10 of the Tamil Nadu Land Encroachment Act, 1905. If the appeal is filed within a period of ten days from today, the Appellate Authority shall entertain the appeal de hors the question of limitation. The stay petition which has to be also filed within 10 days from today shall be considered within ten days of the same being filed. Till orders are passed in the stay petition, status quo as on today shall be maintained. In case, no appeal is filed within the period noted above, it is open to the statutory authority to proceed in accordance with law.

5. The writ petition is disposed of with the above direction. No costs. Consequently, W.M.P.Nos.35648 and 35649 of 2018 are closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1.The District Collector,
Dharmapuri District,
Collectorate,
Dharmapuri - 636 705.

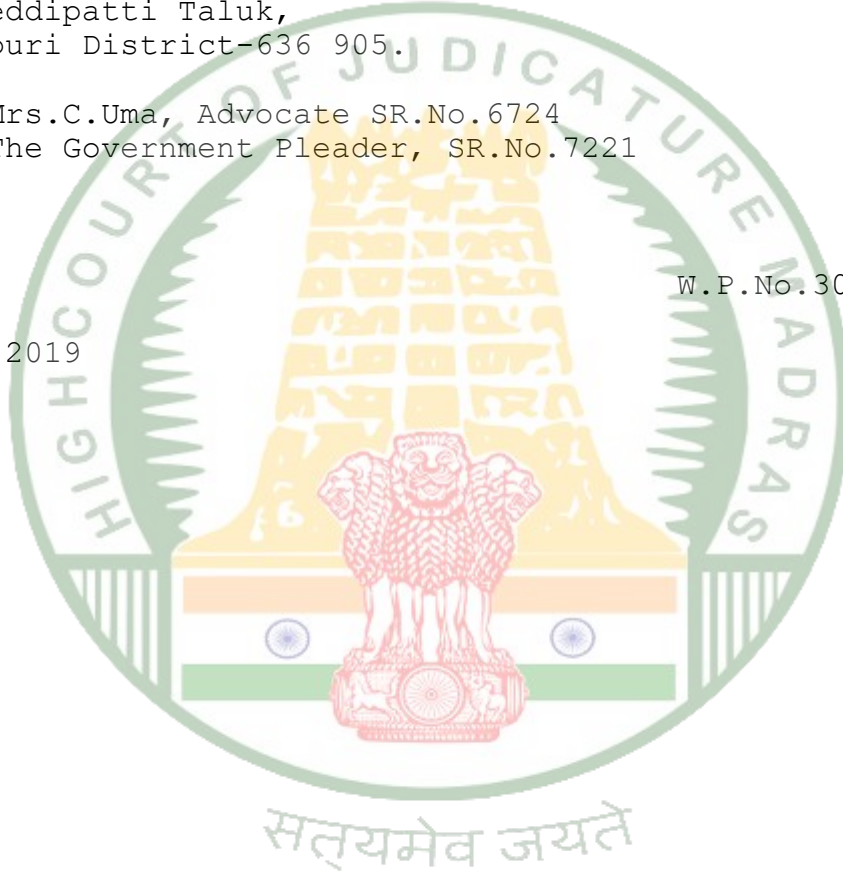
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3.The Tahsildar,
Pappireddipatti Taluk,
Dharmapuri District-636 905.

+1 cc to Mrs.C.Uma, Advocate SR.No.6724
+1 cc to The Government Pleader, SR.No.7221

W.P.No.30563 of 2018

CP(CO)
CSL/30.01.2019



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