

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.10.2020

CORAM :

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN
AND
THE HONOURABLE MRS. JUSTICE R. HEMALATHA

W.P.No.14284 of 2020
and
W.M.P.No.17762 of 2020

D.Gowri

... Petitioner

.Vs.

1. The District Collector,
Office of the District Collector,
Chengelpet District.
2. The Tasildhar,
Office of the Tasildhar,
Chengelpet District.
3. The Revenue Inspector,
Chengelpet Firka,
Chengelpet Taluk,
Chengelpet District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the impugned notice dated 29.08.2020 issued by the 2nd Respondent under Section 6 of the Land Encroachment Act and quash the same as illegal and arbitrary in nature and consequently forbearing the Respondents from evicting or dispossessing the petitioner from his land measuring to an extent of 0.05 Cents, comprised in survey No.93/1A, No.78, Vedanarayanapuram Village, Chengelpet Firka, Chengelpet Taluk, Chengelpet District.

For Petitioner : Mr.S.Arivazhagan

For Respondents : Ms.R.J.Radhika

Government Advocate for R1 to R3

O R D E R

(Order of the Court was made by M.SATHYANARAYANAN, J.)

This writ petition has been filed for issuance of a Writ of Certiorarified Mandamus, challenging the impugned notice dated

29.08.2020 issued by the 2nd Respondent under Section 6 of the Land Encroachment Act, and for a consequential direction forbearing the Respondents from evicting or dispossessing the petitioner from her land measuring to an extent of 0.05 Cents, comprised in survey No.93/1A, No.78, Vedanarayanapuram Village, Chengelpet Firka, Chengelpet Taluk, Chengelpet District.

2.Heard the submissions of the learned counsel for the petitioner and Ms.R.J.Radhika, learned Government Advocate, who accepts notice on behalf of the respondents.

3.A perusal and consideration of the averments in the affidavit filed in support of this writ petition would prima facie disclose that the petitioner is an encroacher and claims to be in possession and enjoyment of the land in S.No.93/1A, situated at Vedanarayanapuram Village, Chengelpet Taluk, Chengelpet District, admeasuring an extent of 0.05 cents, for more than 15 years. The petitioner claims that, over the said property, she has also put up cement sheet shed, which is also connected with water supply.

4.The learned counsel for the petitioner would submit that, to the shock and surprise of the petitioner, the petitioner has been issued with the impugned notice under Section 6 of the Tamil Nadu Land Encroachment Act, 1905, by the 2nd respondent and challenging the illegality of the said notice, the petitioner preferred a statutory appeal before the 1st respondent under Section 10 of the Tamil Nadu Land Encroachment Act, 1905, along with a prayer for interim relief, dated 22.09.2020, and despite the same, the respondents 2 and 3 are contemplating further steps to dispossess the petitioner from the land in question and prays for appropriate directions.

5.Per contra, Ms.R.J.Radhika, learned Government Advocate, would submit that the petitioner, even in Para No.2 of the affidavit filed in support of this writ petition, has stated that she is an encroacher upon the land in question and she cannot claim any legal right over the property in question and due process of law is being followed for evicting her and the petitioner cannot make any complaint in this regard and prays for dismissal of this writ petition.

6.This Court carefully considered the rival submissions and perused the materials placed on record.

7.Though the petitioner prays for a larger relief, this Court, in the light of the fact that, challenging the impugned notice dated 29.08.2020, the petitioner has preferred a statutory appeal, without going into the merits of the case projected by the petitioner either in the writ petition or in

the appeal, directs the 1st respondent/Delegated Authority to consider the prayer for stay initially and give a disposal to the stay petition within a period of two weeks from the date of receipt of a copy of this order and till such time, the respondents 2 and 3 shall not take any further decision with regard to their notice dated 29.08.2020. It is also open to the 1st respondent, who is indicated as the Appellate Authority, to afford priority to the disposal of the appeal itself on merits and in accordance with law, as expeditiously as possible.

This writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The District Collector,
Office of the District Collector,
Chengelpet District.
2. The Tahsildar,
Office of the Tahsildar,
Chengelpet District.
3. The Revenue Inspector,
Chengelpet Firka,
Chengelpet Taluk,
Chengelpet District.

+1cc to Mr.S.Arivazhagan, Advocate, Sr.No.33643

W.P.No.14284 of 2020

sra (co)
rr ii (10/11/2020)

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