

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 14.10.2020

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
AND

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

WP.No.14839/2020

S.Kannan

..Petitioner

Versus

1.The District Collector
Chengalpet District, Chengalpet.

2.The Tahsildar
Madurantagam Taluk
Madurantagam,
Chengalpet District.

...Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus directing the 1st respondent to take the appeal filed by the petitioner dated 01.06.2020 on its file and decide the same in accordance with law within a time frame to be fixed by this Court.

For Petitioner : K.A.Mariappan
For RR 1 & 2 : Ms.R.J.Radhika
Government Advocate

ORDER

(1)By consent, the writ petition is taken up for final disposal and is disposed of by this order.

(2)Ms.R.J.Radhika, learned Government Advocate accepts notice on behalf of respondents 1 and 2.

(3)The petitioner, challenging the impugned Notice dated 28.01.2020 issued by the 2nd respondent under Section 6 of the Tamil Nadu Land Encroachment Act, 1905, in Na.Ka.No.1081/2019/A2, invoked the appeal remedy under Section 10 of the Said Act, by filing an Appeal dated 01.06.2020 before the 1st respondent along with the petition for condonation of delay of 26 days in filing the appeal as well as the petition for interim orders.

(4) The learned counsel for the petitioner would submit that the said Appeal Memorandum dated 01.06.2020 was sent by the Registered Post with Acknowledgment Due to the 1st respondent and despite receipt of the same, no steps have been taken by the 1st respondent to give the date of hearing and in the interregnum, the 2nd respondent is urgently proceeding further to dispossess the petitioner from the land in question and hence, prays for appropriate orders.

(5) Per contra, the learned Government Advocate appearing on behalf of the respondents would submit that even as per the case of the petitioner, he is yet to be issued with a patta and the land in question has already been issued in favour of some other third party and unless the said assignment/transfer is set aside in the manner known to law, the petitioner cannot claim any semblance of right over the land in question and in the light of the fact that he is an encroacher, proceedings are taking place strictly in accordance with law and prays for dismissal of the writ petition.

(6) This Court has considered the rival submissions and also perused the materials placed before it.

(7) 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 him in the Appeal Memorandum dated 01.06.2020 filed before the 1st respondent, directs the 1st respondent or the delegated Appellate Authority to take up the petition for condonation of delay at the first instance, if the Appeal Memorandum is otherwise in order and give a disposal to the same in accordance with law within a period of three weeks from the date of receipt of a copy of this order and till such time, the 2nd respondent shall defer further decision in terms of the impugned notice dated 28.01.2020. It is also open to the 1st respondent or the delegated Appellate Authority to take up the petition for stay as well as the Appeal by according priority and give a disposal in accordance with law as expeditiously as possible.

(8) The writ petition is disposed of accordingly. No costs.

Sd/-

Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

AP

To

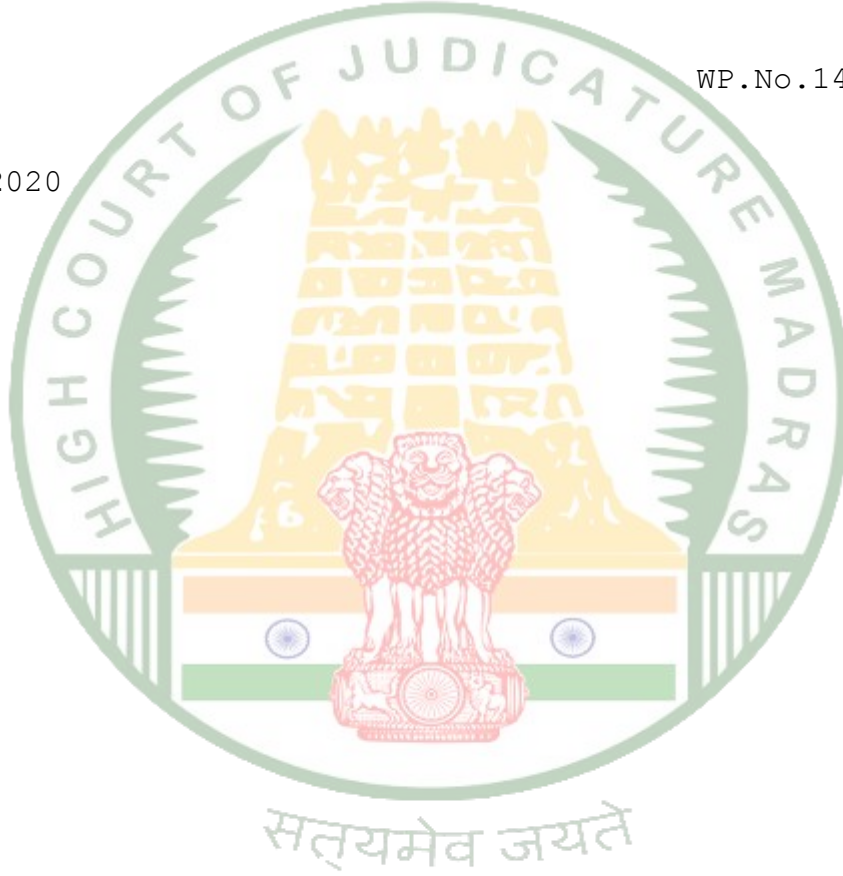
1.The District Collector
Chengalpet District,
Chengalpet.

2.The Tahsildar
Madurantagam Taluk
Madurantagam,
Chengalpet District.

+1cc to Government Pleader, SR.No.34372

WP.No.14839 OF 2020

PP (CO)
CS/06/11/2020



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