

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 03.12.2020

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MRS. JUSTICE R.HEMALATHA

WP.No.17099/2020 & WMP.Nos.21164 & 21166/2020

1.A.Shankar
2.Mrs.A.Chellammal
3.Mrs.A.Chitra
4.Mr.A.Gowthaman .. Petitioners

Versus

The Assistant Executive Engineer
Camp Section, LND Sub Division,
PWD, Valparai 641 127,
Coimbatore District. .. Respondent

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus calling for the records of notice dated 12.10.2020 issued by the respondent u/s.6[1] of the Tamil Nadu Land Encroachment Act, to evict the petitioners from the premises situated at S.No.31/2/3, PAP Colony, Valparai Taluk, Coimbatore District and hand over possession to the respondent within 15 days from the receipt of the notice and quash the same and with direction to the respondent to grant lease in favour of the petitioners.

For Petitioners : Mr.M.Anandaraaj
For Respondent : Ms.R.J.Radhika
Government Advocate

ORDER

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

- (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 the respondent.

- (3) The petitioners, on an earlier occasion filed WP.No.8984 of 2020, against the Executive Engineer, Valparai Division, PWD as well as against the present respondent, praying for issuance of a writ of certiorarified mandamus, calling for the records of the notice dated 08.06.2020 issued by the respondent herein and for demolishing the godown and to remove the belongings from the premises situate at S.No.31/2/3, PAP Colony, Valparai Taluk, Coimbatore District. A Division Bench of this Court has taken note of the fact that the place was taken by way of permission for running a Gas Agency and that it has been suspended, has held that it is for the respondents to invoke Section 7 of the Tamil Nadu Land Encroachment Act, 1905 [in short 'the Act'] and granted further time to the petitioners to respond to the same.
- (4) The respondent, in compliance of the earlier order cited above, has issued notice under Section 7 of the Act dated 12.10.2020 containing the reasons and challenging the legality of the same, the petitioners have filed an appeal dated October 2020, by invoking Section 10 of the Act.
- (5) The learned counsel for the petitioners would submit that it would be suffice to direct the District Collector, Coimbatore, to dispose of the appeal at an early date and prays for interim orders in the meanwhile.
- (6) The learned Government Advocate appearing for the respondent would submit that in the light of categorical findings recorded in the order dated 08.09.2020 in WP.No.8984 of 2020, can be considered only as rank encroachers and since due process of law is being followed, they cannot pray for any grievance and prays for dismissal of this writ petition with exemplary cost.
- (7) This Court has considered the rival submissions made on either side and also perused the materials placed before it.
- (8) This Court, taking into consideration the submission made by the learned counsel for the petitioners and without going into the merits of the claim projected by the petitioner in this writ petition, directs the Collector of Coimbatore district, to entertain the appeal dated October 2020, if the papers are otherwise in order and give a disposal of the said appeal in accordance with law as expeditiously as possible and not later than six weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioners.

(9)The writ petition stands disposed of with the above direction. No costs.

-Sd/-

Assistant Registrar (CS)

// True Copy //

Sub Assistant Registrar

AP

To

The Assistant Executive Engineer
Camp Section, LND Sub Division,
PWD, Valparai 641 127,
Coimbatore District.

Copy to

The Collector of Coimbatore District
Coimbatore.

WP.No.17099/2020

AP [CO]
RR 19/12/2020