

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 09.11.2020

CORAM

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN

AND

THE HONOURABLE MRS. JUSTICE R.HEMALATHA

WP.No.16066 of 2020
and W.M.P.No.20019 of 2020

V.Mohanasundaram

..Petitioner

Versus

1.The District Collector,
Kanchipuram District,
Kanchipuram.

2.The Tahsildar,
Walajabad Taluk,
Kanchipuram District.

3.The Revenue Inspector,
Walajabad,
Kanchipuram District.

..Respondents

Prayer:- Writ petition has been filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorarified Mandamus calling for the records pertaining the orders dated 08.10.2020 and 01.10.2020 on the file of the respondents 2 and 3 respectively, quash the same and consequently direct the 2nd respondent to pass orders by considering the reply dated 05.10.2020 submitted by the petitioner.

For Petitioner : Mr.T.Sathiyamoorthy
For Respondents: Ms.R.J.Radhika
Government Advocate

ORDER

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

The petitioner claims to be the owner of the land admeasuring an extent of 2205 sq.ft (0.05 cent) in S.F.No.126/A1 in Walajabad Village, Kanchipuram District vide Settlement Deed dated 25.05.1992, registered as Doc.No.9518/1992, on the file of the Sub-Registrar, Walajabad and thereafter he has also put up a superstructure.

2. The learned counsel appearing for the petitioner would submit that for the purpose of convenience and enjoyment, a small place has been let out which lies proximity to the public street and alleging the compound wall put up on the said land as an encroachment, the 2nd respondent had issued notice under Sections 7 and 6 of the Land Encroachment Act, 1905, and challenging the legality of the Sections 7 and 6 notice dated 01.10.2020 and 08.10.2020, the present Writ Petition is filed.

3. The learned counsel appearing for the petitioner would submit that in response to the notice issued under Section 7 of the Tamil Nadu Land Encroachment Act, 1905, the petitioner has submitted a detailed representation dated 05.10.2020 to the concerned respondents and also marked a copy of the same to the office of the 1st respondent, who vide memo dated 16.10.2020 in O.Mu.No.14727/2020/Aa4, directed the 2nd respondent to cause appropriate enquiry and take action and inform the same to the petitioner as well as to the office of the 1st respondent. However without compliance of the said directions of the superior official, the 2nd respondent is urgently proceeding further, for the purpose of removal of the alleged encroachment and prays for appropriate orders.

4. Ms.J.Radhika, learned Government Advocate accepts notice on behalf of the respondents 1 to 3 and would submit that since action is taken strictly in accordance with the Tamil Nadu Encroachment Act, 1905, it is not open to the petitioner to make any grievance, even otherwise, the petitioner is also having an effective alternative remedy under Section 10 of the Tamil Nadu Land Encroachment Act, 1905 and prays for dismissal of this Writ Petition.

5. This Court has carefully considered the rival submissions and also perused the materials placed before this Court.

6. Though the petitioner prays for a larger relief, this Court in the light of the above facts and circumstances and without going into the merits of the claim projected by the petitioner, either in the Writ Petition or in his response dated

05.10.2020 submitted to the 2nd respondent, in respect of notices issued under Section 6 and 7 of the Tamil Nadu Land Encroachment Act, 1905, directs the 2nd respondent to act on the communication of the 1st respondent in O.M.14727/2020/B4 dated 16.10.2020 and take appropriate action in accordance with law and communicate the decision taken, to the petitioner within a period of four weeks from the date of receipt of a copy of this order and till such time, the respondents 2 and 3 shall defer further decision in terms of the notices issued under Sections 7 and 6 of the Tamil Nadu Land Encroachment Act, 1905. It is also made clear that till the 2nd respondent passes order in terms of the above cited communication of the office of the 1st respondent, the petitioner shall not create any third party right, in respect of the land and superstructure in question.

7. The Writ Petition is disposed of, accordingly. No costs. Consequently connected miscellaneous petition is closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1.The District Collector,
Kanchipuram District,
Kanchipuram.

2.The Tahsildar,
Walajabad Taluk,
Kanchipuram District.

3.The Revenue Inspector,
Walajabad,
Kanchipuram District.

+2 CCS to Mr.T.Sathiyamoorthy, advocate sr 36437

+1 CC to Government Pleader sr 36490.

W.P.No.16066 of 2020

KJ(CO)
SP(04/12/2020)