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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.01.2020

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAISWAMY
and
THE HONOURABLE MR.JUSTICE T.RAVINDRAN

W.P.(MD) No.1648 of 2020
and
W.M.P.(MD) Nos.1364, 1365 & 1367 of 2020

P.Maharajan ... Petitioner

-vs-

1.The District Collector
Tirunelveli District
Tirunelveli

2.The District Revenue Officer
Collectorate Office
Tirunelveli, Tirunelveli District

3.The Sub Collector
Cheranmahadevi
Tirunelveli District

4.The Tahsildar
Thisayanvilai Taluk
Tirunelveli District

5.The Village Administrative Officer
Thisayanvilai, Tirunelveli District

6.Sudalaikannu ... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus to call for the records relating to the impugned notice issued by the 4th respondent dated 26.12.2019 under Section 6 of the Tamil Nadu Land Encroachment Act, 1905 and to quash the same and consequently direct the respondents 1 to 4 herein to issue patta to the petitioner in respect of the house with vacant property bearing S.No.642/1, to an extent of 7 ½ cents, situated at Nalanthula North Street, Kumarapuram Village and post, Thisayanvilai, Tirunelveli Districts.

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For Petitioner : Mr.A.Saravanan
For Respondents : Mr.S.Angappan
Government Advocate for R1 to R5

O R D E R

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

The petitioner has filed the above writ petition to issue a writ of certiorarified mandamus to call for the records relating to the impugned notice, dated 26.12.2019, issued by the fourth respondent under Section 6 of the Tamil Nadu Land Encroachment Act, 1905 (hereinafter, referred to as "the Act"), to quash the same and consequently, to direct the respondents 1 to 4 to issue Patta to him in respect of the house with vacant property bearing Survey No.642/1, measuring an extent of 7 ½ Cents, situated at Nalanthula North Street, Kumarapuram Village and Post, Thisayanvilai, Tirunelveli District.

2. The petitioner has challenged the notice issued under Section 6 of the Act, in this writ petition.

3. It is brought to the notice of this Court that as against the said notice, the petitioner has filed an appeal, dated 22.01.2020, before the first respondent.

4. The learned counsel appearing for the petitioner submitted that since the petitioner has filed appeal before the first respondent as against the impugned notice, instead of going into the merits of the order passed by the fourth respondent, it would suffice to direct the first respondent to dispose of the appeal, within a time frame.

5. Mr.S.Angappan, learned Government Advocate, who takes notice for the respondents 1 to 5, submitted that the first respondent may be directed to dispose of the appeal filed by the petitioner within a period of three months, from the date of receipt of a copy of this order.

6. In view of the submissions made by the learned counsel on either side and taking into consideration the limited prayer sought for by the learned counsel for the petitioner, without expressing any opinion with regard to the merits of the case, we direct the first respondent to dispose of the appeal, dated 22.01.2020, filed by the petitioner under Section 10 of the Act, within a period of three months from the date of receipt of a copy of this order. If stay application is filed under Section 10-B of the Act, the first respondent shall consider the same and pass orders as expeditiously as possible.

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7. At this juncture, the learned counsel appearing for the petitioner submitted that the sixth respondent has filed a writ petition in W.P.(MD) No.27204 of 2019, by way of a public interest litigation, for removing the encroachments, which are the subject matter of the present writ petition and this Court has ordered notice to the respondents, however, no order has been passed in the said writ petition sofar. The above submission made by the learned counsel appearing for the petitioner is recorded.

8. With these observations, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

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Sub Assistant Registrar(CS)

To:

1.The District Collector,
Tirunelveli District, Tirunelveli.

2.The District Revenue Officer,
Collectorate Office, Tirunelveli,
Tirunelveli District.

3.The Sub Collector,
Cheranmahadevi, Tirunelveli District.

4.The Tahsildar,
Thisayanvilai Taluk, Tirunelveli District.

5.The Village Administrative Officer,
Thisayanvilai, Tirunelveli District.

+1 CC to M/s.A.SARAVANAN, Advocate (SR-3575[F] dated 29/01/2020)
+1 CC to M/s.Special Govt.Pleader (SR-3726[F] dated 29/01/2020)

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