



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.09.2020

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

WEB COPY

W.P. (MD)No.12627 of 2020

and

W.M.P (MD)No. 10761 of 2020

Pappathi Ammal

... Petitioner

Vs.

1.The District Collector,
District Collector's Office,
Trichy - 1.
Trichy District.

2.The Zoal Deputy Tahsildar,
Taluk Office,
Srirangam,
Trichy - 6,
Trichy District.

... 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 second respondent's proceedings made in Na.Ka.Aa3/1397/2020 - Notice under Section 7 of the Chennai III Act, 1905, dated 14.09.2020 as well as Aa3/6727/2013, dated 14.09.2020 and quash the same and further, direct the first respondent herein to dispose of the petitioner's appeal under Section 10(B) of the Land Encroachment Act, 1905, dated 05.03.2020, within a stipulated period.

For Petitioner : Mr.R.Sundar

For Respondents : Mr.M.Muthugeethaiyan,
Special Government Pleader

* * * * *

ORDER

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

The petitioner claims to be in possession of a landed property admeasuring 878 sq. mts., in S.F.No.2070/1 of Thimmarayasamuthiram Village, Srirangam Taluk, Tiruchirappalli District, by way of inheritance and according to the learned Counsel for the petitioner, the ancestors of the petitioner, by way of succession, remained in possession for decades together.



2. Learned Counsel for the petitioner would submit that on an earlier occasion, the second respondent has issued a notice under Section 6 of the Chennai III Act, 1905, in Aa3/6727/2013, dated 07.02.2020 and it was put to challenge by filing W.P(MD)No.3585 of 2020 and a Division Bench of this Court, vide order dated 21.02.2020, had disposed of the said writ petition by relegating the petitioner to file an appeal before the first respondent and accordingly, an appeal along with a petition for stay has also been filed before the first respondent and the same is pending and despite that, a fresh notice has been issued by the second respondent to her husband alleging that the husband of the petitioner is in occupation of 0.00.5 (as stated in the impugned notice, dated 14.09.2020) in the form of a thatched shed in S.F.No.2070/1 of Thimmarayasamuthiram Village, Srirangam Taluk, Tiruchirappalli District.

3. The submission of the learned Counsel for the petitioner is that her husband is nothing to do with the property in question and further points out that though appeal filed by her pursuant to the liberty granted by this Court in the earlier order dated 21.02.2020, passed in W.P(MD)No.3585 of 2020, in order to get over the same, the present notice came to be issued and prays for appropriate orders.

4. Mr.M.Muthugeethaiyan, learned Special Government Pleader accepts notice on behalf of the respondents and would submit that the first respondent, vide proceedings in Moo.Mu.Aa1/7522/2020, dated 25.09.2020, has dismissed the appeal filed by the petitioner and a copy of the same has also been communicated to the petitioner and hence, the remedy, if any, open to the petitioner is to avail further remedies under the Tamil Nadu Land Encroachment Act, 1905 and prays for the dismissal of this writ petition.

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

6. Though it is the vehement and forceful submission of the learned Counsel for the petitioner that the husband of the petitioner is nothing to do with the extent of the land indicated in the impugned notice dated 14.09.2020, no such averments are available in the affidavit filed in support of this writ petition. In the considered opinion of this Court, the petitioner is having an effective alternative remedy under the Tamil Nadu Land Encroachment Act, 1905 in respect of the impugned notice dated 14.09.2020 issued by the second respondent and that apart, the petitioner is also having a further remedy in respect of the above said proceedings of the first respondent, in Moo.Mu.Aa1/7522/2020, dated 25.09.2020 and as such, this writ petition is not maintainable.



7. In the result, this writ petition is dismissed as not maintainable. No costs. Consequently, the connected writ miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar (crl side)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

RSB

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The District Collector,
District Collector's Office,
Trichy - 1.
Trichy District.

2.The Zoal Deputy Tahsildar,
Taluk Office,
Srirangam,
Trichy - 6,
Trichy District.

+1 CC to SPL GP (SR-18405[F] dated 29/09/2020)

W.P. (MD)No.12627 of 2020

and

W.M.P(MD)No. 10761 of 2020

28.09.2020

VB (06.10.2020) 3P 4C