



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.12.2021

CORAM :

THE HON'BLE MR.MUNISHWAR NATH BHANDARI,
ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE P.D.AUDIKEVALU

W.P.No.20105 of 2021

K.Markabandu

.. Petitioner

Vs.

1. The Tahsildar
Poonamallee, 5, Trunk Road
Poonamallee 56.
2. The Revenue Inspector
Poonamallee, Chennai 56.
3. The Member Secretary
Chennai Metropolitan Development Authority
Chennai.
4. The District Collector
Tiruvallur.

.. Respondents

[R4 impleaded suo motu by
this order dated 06.12.2021]

Prayer: Petition filed under Article 226 of the Constitution of India praying for a writ of Certiorarified Mandamus to call for the records on the file of the second respondent dated 03.09.2021 issued under Section 7 of the 1905 Act (Land Encroachment Act) in respect of the petitioner's property i.e. No.147, KGT Nagar, Kattupakkam, Chennai 56 and quash the same and consequently, direct the respondents not to interfere with his peaceful possession and enjoyment of the above mentioned property.



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For the Petitioner : Ms.Selvi George

For the Respondents : Mrs.R.Anitha
Special Govt. Pleader
for respondents 1, 2 & 4

ORDER

(Order of the Court was made by
the Hon'ble Acting Chief Justice)

A challenge to the notice dated 03.09.2021, issued by the second respondent, under Section 7 of the Act of 1905 (Land Encroachment Act) has been made in this writ petition.

2. Learned counsel for the petitioner submits that consequent to the notice impugned herein, an order of eviction has been passed and therefore, the petitioner has preferred an appeal and same is pending. In the meanwhile, a public interest litigation has also been filed in respect of the said land and the Court has taken cognizance and also directed the respondents to submit a report.

3. In view of the above, the petitioner, apprehending that the Appellate Authority may not consider the merits of the case in reference to the material produced by the petitioner or may be guided by the pending public interest litigation, has preferred this writ petition.

4. The prayer of the petitioner is either to protect his rights in the writ petition or alternatively, to direct the Appellate Authority to decide the appeal independently, based on the facts and the materials produced by the petitioner as well as the respondents, without being influenced by pendency of the public interest litigation before this Court.

5. We have considered the submissions made on behalf of both the parties.

6. As the District Collector, Tiruvallur, is a necessary party to the writ petition, the District Collector, Tiruvallur is impleaded suo motu as the fourth respondent.

7. In the instant case, there are certain disputed questions of fact which can be determined only in an appeal.



Therefore, instead of entering it, we dispose of the writ petition with a direction to the Appellate Authority to hear and decide the appeal independently, without being influenced by the pendency of the public interest litigation, after considering the rival submissions of the parties and appreciation of the facts, within a period of three months from the date of receipt of a copy of this order.

8. W.P.No.20105 of 2021 is disposed of. There will be no order as to costs. WMP Nos.21379 & 21380 of 2021 are closed.

Sd/-

Assistant Registrar(CS-IX)

// True Copy //

Sub Assistant Registrar

kpl

To:

1. The Tahsildar
Poonamallee, 5, Trunk Road
Poonamallee 56.
2. The Revenue Inspector
Poonamallee, Chennai 56.
3. The Member Secretary
Chennai Metropolitan Development Authority
Chennai.
4. The District Collector
Tiruvallur.

+1cc to Mrs.Selvi George, Advocate SR.No.64278

W.P.No.20105 of 2021

MG(CO)
CB(20/12/2021)