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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 28.10.2021

CORAM:

THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM
and
THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

W.P. No.23178 of 2021
and WMP.No.24476 of 2021

Elumalai

.. Petitioner

Versus

1. The District Collector,
District Collector Office,
Thriuvannamalai District,
Thiruvannamalai.
2. The District Revenue Officer,
Thiruvannamalai District,
Thriuvannamalai.
3. The Revenue Divisional Officer,
Thriuvannamalai District,
Thiruvannamalai.
4. The Tahsildar,
Kilpennathur Taluk,
Thiruvannamalai District.

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the orders of the fourth respondent impugned proceedings in Na.Ka.No.A1/553/2017, dated 12.10.2021 issued under Section 7 Notice of Tamilnadu Land Encroachment Act, 1905 and to quash the same as illegal, incompetent and ultravires and consequently, direct the respondents to restrain from interfering with the petitioner peaceful possession over the petitioner property in R.S.Nos.38/8 and 38/6A1 Somasipadi Pudhur, Kilpennathur Taluk, Thiruvannamalai District 606611.

For petitioner : Mr.M.Guruprasad

For respondents: Mrs.Akila Rajendran, Government Advocate



ORDER

(The Order of the Court was made by K.KALYANASUNDARAM, J)

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The Writ Petition is heard through video conferencing.

2. This Writ Petition has been filed challenging the notice issued under Section 7 of the Land Encroachment Act, 1905.

3. The learned counsel appearing for the petitioner Mr.M.Guruprasad would state that in respect of the same issue, the fourth respondent had already issued a notice and passed order under Section 6 of the Act on 26.07.2019. Aggrieved over the same, the petitioner preferred an appeal before the third respondent on 26.08.2019. While the appeal is pending, the fourth respondent has again issued a notice under Section 7 of the Act.

4. The learned Government Advocate appearing for the respondents Mrs.Akila Rajendran on instruction would state that the appeal preferred by the petitioner on 26.08.2019 is still pending before the third respondent and he is ready to pass orders in accordance with law.

5. In the case on hand, indisputably in respect of the same issue a final order under Section 6 of the Act was made, against which, an appeal was preferred, however, it is not yet disposed of. It appears that without noticing these facts, the impugned notice has been issued. So, in our considered opinion, the petitioner is entitled to succeed in this Writ Petition.

6. In that view, the impugned proceedings of the fourth respondent is set aside. Considering the facts and submissions of the learned counsels, the third respondent is directed to pass orders on the appeal preferred by the petitioner dated 26.08.2019 in accordance with law after affording opportunity of personal hearing to the petitioner. Till such time, the respondents shall not precipitate the issue.

7. With the above observation and directions, the Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-CCC)

//True copy//

Sub Assistant Registrar

pvs



To

1. The District Collector,
District Collector Office,
Thiruvannamalai District,
Thiruvannamalai.

2. The District Revenue Officer,
Thiruvannamalai District,
Thiruvannamalai.

3. The Revenue Divisional Officer,
Thiruvannamalai District,
Thiruvannamalai.

4. The Tahsildar,
Kilpennathur Taluk,
Thiruvannamalai District.

+1cc to Mr.M.Guruprasad, Advocate SR.No.55925

+1cc to Government Pleader SR.No.56679

W.P. No.23178 of 2021

SSI (CO)
GMY (03/12/2021)