



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.12.2021

CORAM:

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

W.P.No.25617 of 2021
and
W.M.P.Nos.27036 and 27038 of 2021

M.Jaganathan

... Petitioner

Vs.

1. The District Collector,
Kancheepuram District.
2. The Thasildhar
Kundrathur Taluk,
Kancheepuram District.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari to call for the records pertaining to the notice dated 29.10.2021 issued by the second respondent calling for the petitioner to vacate and hand over vacant possession of 0.08.5 Hectares of land comprised in survey No.526 of Padappai village, Kundrathur Taluk, Kancheepuram District, quash the same.

For petitioner : Mr.C.D.Sugumar

For respondents : Mr.R.Siddharth
Govt. Advocate

ORDER

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

Mr.R.Siddharth, learned Government Advocate takes notice for the respondents. By consent, this writ petition is taken up for final disposal at the admission stage itself.

2.This writ petition has been filed challenging the order dated 29.10.2021 passed by the second respondent under Section 6 of the Tamil Nadu Land Encroachment Act.



3.The petitioner would state that he is residing at Door No.2/272, Ambedhkar Street, Murugathaamman Pettai, Padappai, Kancheepuram for several years and the land is a part of burial ground. The President of Padappai, by a resolution dated 29.12.1964, has mortgaged the property to one Rajagopal and thereafter, he was put in possession of the property. The petitioner's father Munuswamy purchased the same in the year 1978. While so, the second respondent issued the impugned notice to the petitioner to vacate the premises.

4.The learned counsel for the petitioner Mr.C.D.Sugumar would submit that though the petitioner is having an alternative remedy of filing an appeal before the appellate authority/District Collector under Section 6 of the Tamil Nadu Land Encroachment Act, this writ petition is filed, since he did not have sufficient time to prefer the appeal. It is further submitted that the petitioner is ready to file an appeal before the appellate authority, but in the meantime, the interest of the petitioner can be protected by an interim order.

5.It is submitted by the learned Government Advocate appearing for the respondents Mr.R.Siddharth that since the petitioner is having a statutory remedy of filing an appeal, this writ petition is not maintainable.

6.Considering the submission of the learned counsels, this Court without expressing any opinion on the merits of the matter, directs the petitioner to file an appeal before the appellate authority, the first respondent herein on or before 17.01.2022. If the appeal is filed within the time framed, the first respondent shall entertain and dispose of the same on merits and in accordance with law. Till then, the respondents shall not take any coercive action against the petitioner.

7.With the above direction, this Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

skn



To

1. The District Collector,
Kancheepuram District.

2. The Thasildhar
Kundrathur Taluk,
Kancheepuram District.

+lcc to Mr.C.D.Sugumar, Advocate, S.R.No.62905
+lcc to the Government Pleader, S.R.No.63452

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SSI (CO)
CT 10/01/2022