



WEB COPY

W.P(MD)No.13537 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAI SWAMY

AND

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.P (MD) No.13537 of 2021

and

W.M.P. (MD) Nos.10494, 10497 and 10498 of 2021

Subburaj

... Petitioner

Vs.

1.The District Collector,
Madurai District.

2.The Revenue Divisional Officer,
Usilampatti,
Madurai District.

3.The Tahsildar,
Peraiyur Taluk,
Madurai District.

4.The Deputy Superintendent of Police,
Peraiyur,
Madurai District.

5.The Inspector of Police,
Peraiyur Police Station,
Madurai District.

6.The Executive Officer,
Peraiyur Town Panchayat,
Madurai District.

7.The Assistant Executive Engineer,
Tamil Nadu Generation and Distribution Corporation Limited,
Peraiyur,
Madurai District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of CERTIORARI FIED MANDAMUS calling for the records relating to the impugned notice, dated 14.07.2021, under Section 6 of the Land Encroachment Act 1905 and impugned memo dated 13.7.2021 made Na.Ka.No.5914/2020/Aa5, issued by the third respondent in respect of the subject property in S.No.92/4 Peraiyur First Bit Village, Peraiyur Taluk, Madurai District and quash the same and consequently to forbear the respondents from interfering with possession and enjoyment of the subject property by the petitioner.

For Petitioner

: Mr.P.Ganapathy Subramanian

For Respondents

: Mr.B.Saravanan

Government Advocate



ORDER

(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, calling for the records relating to the impugned notice, dated 14.07.2021, issued under Section 6 of the Land Encroachment Act, 1905 and impugned memo, dated 13.07.2021, issued by the third respondent, in respect of the subject property in S.No.92/4 Peraiyur First Bit Village, Peraiyur Taluk, Madurai District and quash the same and consequently forbear the respondents from interfering with the possession and enjoyment of the subject property.

2.In the above writ petition, the petitioner is challenging the order passed under Section 6 of the Land Encroachment Act, 1905. It cannot be disputed that the petitioner has got remedy by way of an appeal under Section 10 of the Act. When the petitioner has got remedy, by way of an appeal, before the appellate authority available under the Act, the writ petition filed by him challenging the order dated 14.07.2021, issued under Section 6 of the Land Encroachment Act, 1905, cannot be entertained. The petitioner has alternative and efficacious remedy by way of an appeal, available to him under Section 10 of the Act.

3.In such view of the matter, we are not inclined to entertain the writ petition. Accordingly, the Writ Petition is dismissed. No costs. Consequently, the connected Miscellaneous Petitions are also dismissed. It is open to the petitioner to challenge the impugned orders issued under the Land Encroachment Act, 1905.

4.Mr.P.Ganapathi Subramanian, learned Counsel appearing for the petitioner submitted that the petitioner would file an appeal under Section 10 of the Act, before the appellate authority, within the prescribed time limit and till such time, the respondents may be directed to maintain status quo.

5.In view of the submission made by the learned Counsel appearing for the petitioner, in the event of the petitioner filing an appeal under Section 10 of the Land Encroachment Act, 1905, within the period of limitation, the respondents are directed to maintain *status quo* till such time.

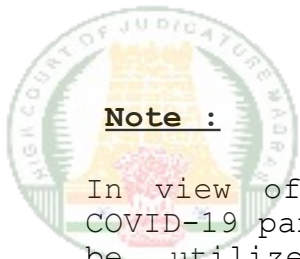
Sd/-

Assistant Registrar (A.D II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



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,
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- 7.The Assistant Executive Engineer,
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+1CC to Special Government Pleader (SR25614)

W.P (MD) No.13537 of 2021

and

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06.08.2021

LS

RS (13.08.2021) 3P-9C