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W.P.(MD) No.17596 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.09.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, THE CHIEF JUSTICE

AND

The HON'BLE MR.JUSTICE M.DURAI SWAMY

W.P. (MD) No.17596 of 2021

and

W.M.P. (MD) No.14494 of 2021

M.Chinnasamy

.. Petitioner

Vs.

1.The District Collector,
Madurai District.

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

3.The Block Development Officer,
(Village Panchayat)
Sedapatti,
Madurai District.

4.The Tahsildar,
Peraiyur Taluk,
Madurai District.

.. Respondents

PRAYER: Petition under Article 226 of the Constitution of India seeking issuance of a writ of Certiorarified Mandamus, calling for the records of the impugned notice issued by the 4th respondent dated 17.09.2021 bearing Na.Ka.No.5179/2021/C1 and quash the same and forbearing the respondents, their men or agent or anybody else authorized on their behalf from evicting the petitioners from the peaceful enjoyment of the House Property situated in the survey No.76, T.Meenakshipuram Village consequently to provide alternative place.

For Petitioner : Mr.R.Saravanan

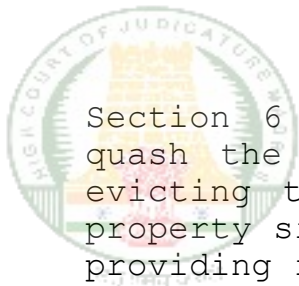
For Respondents : Mr.B.Saravanan,
Government Advocate.

ORDER

[Order of the Court was made by M.DURAI SWAMY, J.]

The petitioner has filed the above Writ Petition to issue a Writ of Certiorarified Mandamus, to call for the records in respect of the order passed by the fourth respondent dated 17.09.2021 under

<https://hcservices.ecourts.gov.in/hcservices/>



Section 6 of the Tamil Nadu Land Encroachments Act, 1905 and to quash the same and consequently to restrain the respondents from evicting the petitioner from the peaceful enjoyment of the house property situated in Survey No.76, T.Meenakshipuram Village, without providing for an alternate place.

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2. The fourth respondent-Tahsildar, Peraiyur Taluk, has passed an order under Section 6 of the Tamil Nadu Land Encroachments Act, 1905 [hereinafter referred to as 'the Act'], for evicting the petitioner from the encroached land.

3. It is not in dispute that the fourth respondent had issued a notice under Section 7 of the Act, calling upon the petitioner to give his explanation and accordingly, the petitioner has also given his explanation to the notice issued under Section 7 of the Act. Being dissatisfied with the explanation given by the petitioner, the fourth respondent passed the order under Section 6 of the Act.

4. It cannot be disputed that the petitioner has got a remedy by way of an appeal under Section 10 of the Act before the appellate authority. The petitioner has filed the Writ Petition without exhausting the alternate remedy available to him before the appellate authority under Section 10 of the Act.

5. In such view of the matter, the Writ Petition can be disposed of giving liberty to the petitioner to challenge the impugned order dated 17.09.2021 passed under Section 6 of the Act, before the appellate authority.

6. Learned counsel appearing for the petitioner submitted that he has given a representation to the first respondent-District Collector to allot an alternate site. However, the first respondent has not considered the same yet. Learned counsel also relied upon an order passed in W.P.(MD)Nos.198 to 200 of 2012 dated 31.01.2012, wherein the Division Bench of this Court directed the District Collector to consider the petitioner's representation for allotment of the alternate site.

7. In the event of the petitioner submitting a fresh representation to the first respondent for allotment of an alternate site, it will be open to the District Collector to take a decision on the same, in accordance with law.

8. With these observations, the Writ Petition is disposed of.

9. The registry is directed to return the original impugned order to learned counsel for the petitioner, enabling him to file an appeal before the appellate authority. A photocopy of the impugned order must be retained with the papers.



10. There will be no order as to costs. Consequently, W.M.P.(MD) No.14494 of 2021 is closed.

Sd/-

Assistant Registrar (Crl side)

// True Copy //

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Sub Assistant Registrar(CS)

MR/RM

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,
Madurai District.
- 2.The Revenue Divisional Officer,
Usilampatti, Madurai District.
- 3.The Block Development Officer,
(Village Panchayat)
Sedapatti, Madurai District.
- 4.The Tahsildar,
Peraiyur Taluk,
Madurai District.

Copy to

The Section Officer, E.R. Section
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.R.SARAVANAN, Advocate (SR-30527[F] dated 28/09/2021)

+1 CC to M/s.SPL.GP (SR-30596[F] dated 29/09/2021)

W.P. (MD) No.17596 of 2021
28.09.2021

RK (06.10.2021) 3P 8C