



WEB COPY

W.P.(MD).No.19454 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :27.10.2021

CORAM:

THE HONOURABLE MR.JUSTICE V. BHARATHIDASAN

and

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.P. (MD) .No.19454 of 2021

and

W.M.P(MD) Nos.16169 & 16170 of 2021

P.Dharmaraj,
S/o.Padmanaban
Managing Trustee,
Ananda Samudram Grama Bramana Samudhayam
No.41, South Car Street,
Nagercoil.

... Petitioner

-vs-

1.The District Collector
Kanyakumari District,
Nagercoil - 1.

2.The Tahsildar,
Agasteeswaram Taluk,
Nagercoil,
Kanyakumari District.

... Respondents

PRAYER : Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, calling for the records relating to the impugned order passed by the first respondent in his proceedings in Na.Ka.M2/47480/2017, dated 20.10.2021 and to quash the same.

For Petitioner : Mr.B.Saravanan
For Respondents : Mr.P.Thilak Kumar
Government Pleader

O R D E R

(Order of the Court was made by V. BHARATHIDASAN, J.)

This writ petition has been filed challenging the order of the District Collector passed in the Interlocutory Application filed by the petitioner, seeking stay of the order of eviction.

2. The petitioner said to have encroached 0.5 cents of Government Poramboke land. Hence, the Tahsildar, Agasteeswaram, passed an order of eviction under Section 6 of the Tamil Nadu Land Encroachment Act., challenging the same, the petitioner said to have filed an appeal before the District Collector, Kanyakumari under



Section 10 of the Land Encroachment Act and also filed an application under Section 10 (B) of the Land Encroachment Act, seeking for interim stay of the order of eviction. In the meantime, once again the Tahsildar, Agasteeswaram passed an order of demolition, that was challenged by the petitioner before this Court in W.P.(MD) No.15398 of 2021. The Division Bench of this Court, by order dated 26.08.2021, directed the District Collector to consider the stay petition filed by the petitioner under Section 10(B) of the Act and pass orders, on merits and in accordance with law. Pursuant to the order passed by this Court, the impugned order has been passed, rejecting the Interlocutory Application filed by the petitioner. Now, challenging the same, the present writ petition has been filed.

3. Heard Mr.B.Saravanan, learned counsel appearing for the petitioner and Mr.P.Thilak Kumar, learned Government Pleader appearing for the respondents.

4. Admittedly, against the order of eviction, an appeal is pending before the District Collector and pending appeal, an order of demolition was also passed by the Tahsildar. In the circumstances, pending appeal, if the stay application is dismissed, there is a likelihood of the petitioner being evicted and the superstructure also likely to be demolished, and in that event, the appeal filed by the petitioner will become infructuous.

5. In the above circumstances, we are inclined to interfere with the order passed by the District Collector, and the first respondent is directed to dispose of the main appeal filed by the petitioner dated 17.02.2021, and pass suitable orders, within a period of six weeks from the date of receipt of a copy of this order, after giving opportunity to the petitioner. Till then, the respondents are directed not to take any steps to evict the petitioner.

6. With the above directions, this Writ Petition is disposed of. No costs. Consequently the connected Miscellaneous Petitions are closed.

Sd/-

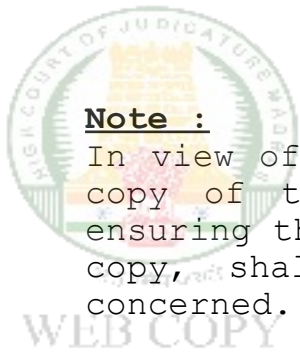
Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

akv/ebsi



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
Kanyakumari District,
Nagercoil - 1.

2.The Tahsildar,
Agasteeswaram Taluk,
Nagercoil,
Kanyakumari District.

+1 CC to M/s.B. SARAVANAN, Advocate (SR-32931[F] dated 27/10/2021)

+1 CC to M/s.SPL.GP (SR-33033[F] dated 28/10/2021)

ORDER MADE IN
W.P. (MD) No.19454 of 2021
27.10.2021

AM(CO)
GC/PM(15.11.2021) 3P 5C