



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.03.2022

CORAM :

THE HON'BLE MR.MUNISHWAR NATH BHANDARI, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.Nos.1589 to 1591 of 2022

K.Venkatesan .. Petitioner in WP:1589/2022

M.Anusuya .. Petitioner in WP:1590/2022

Vasantha .. Petitioner in WP:1591/2022

Vs

1. The District Collector
(Chennai District)
Singaravelar Maligai
Chennai - 600 001.

2. The Tahsildar
Sholinganallur Taluk
Chennai - 600 119.

.. Respondents

Prayer: Petitions filed under Article 226 of the Constitution of India praying for a writ of mandamus directing the first respondent to pass orders in the appeals and stay petitions dated 12.1.2022 against the second respondent's orders even dated 10.1.2022 under the Tamil Nadu Land Encroachment Act, 1905 within a stipulated time.

For the Petitioners : Mr.K.Sakthivel

For the Respondents : Mr.J.Ravindran
Additional Advocate General
assisted by
Mr.P.Muthukumar
State Government Pleader



COMMON ORDER

(Order of the Court was made by the Hon'ble Chief Justice)

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The petitioners have filed these writ petitions seeking a direction on the first respondent to pass orders on the appeals filed by them on 12.1.2022.

2. Challenging the order dated 10.1.2022 passed by the second respondent under Section 6 of the Tamil Nadu Land Encroachment Act, 1905, the petitioners filed appeals under Section 10 of the Act of 1905. During the pendency of the appeals, simultaneous proceedings in the shape of writ petitions were taken to seek a direction for interim orders.

3. Learned State Government Pleader was directed to seek instructions in regard to the assignment of lands in favour of the petitioners. In pursuance of the direction aforesaid, a status report has been filed indicating that during the pendency of the appeals under Section 10 of the Act, the original file of the District Collector in No.1675/1988/B1, dated 14.12.1988 was called for, but was not found. The matter has been kept for enquiry and notices were served on the petitioners to appear before the appellate authority on 7.2.2022. The matter is thus under active consideration before the appellate authority.

4. In view of the above, we do not find a case for issuance of the direction of the nature sought by the petitioners, as two simultaneous remedies cannot be availed by the petitioners. If an interim order is required, the petitioners could have prayed for the same before the appellate authority, which is seized of the matter. Only for obtaining a stay order pending consideration of the appeals, writ petitions would not be maintainable and otherwise the action of the respondents would remain subject to the final outcome of the appeals. Thus, we do not find any ground to keep this matter pending, especially when the assignment of lands itself is in doubt.

5. With the observations already made, the writ petitions are disposed of without any direction of the nature sought. However, the petitioners would be at liberty to seek any interim relief before the appellate authority, who can pass appropriate orders after applying his mind and considering the facts of this case, the revenue records, the nature of the land and the recent judgment of the Supreme Court in Rameshbhai Virabhai Chaudhari v. The State of Gujarat, [Civil Appeal No.5135 of 2021, dated 6.9.2021], which dealt with unauthorised encroachment on gauchar land, i.e., grazing land. The appellate authority would further be expected to decide all the pending



appeals in regard to the land in question at the earliest.

There will be no order as to costs. Consequently,
W.M.P.Nos.1722, 1723 and 1725 of 2022 are closed.

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Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

sasi

To:

1. The District Collector
(Chennai District)
Singaravelar Maligai
Chennai - 600 001.
2. The Tahsildar
Sholinganallur Taluk
Chennai - 600 119.

+3ccs to M/s.K.Sakthivel, Advocate, S.R.No.13479

W.P.Nos.1589 to 1591 of 2022

RSI (CO)
SU(08/03/2022)