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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.03.2022

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA
and
THE HONOURABLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

W.P.No.5884 of 2022
and
W.M.P.No5988 of 2022

M.Krishnan @ Chinni Krishnan ... Petitioner

vs

- 1.The State of Tamil Nadu,
Rep. by its Principal Secretary,
Revenue Department,
Fort St. George,
Chennai - 600 009.
- 2.The Commissioner,
Land Administration,
Ezhilagam, Chennai - 5.
- 3.The District Collector,
Office of the District Collector,
Thiruvallore District.
- 4.The District Revenue Officer,
Office of the District Revenue Officer,
Thiruvallore District.
- 5.The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Ponneri, Thiruvallore District.
- 6.The Tahsildar,
Gummudipoondi Taluk,
Thiruvallore District.

7.K.Natarajan ... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the second respondent to consider and dispose of the Revision Petition dated 28.02.2022 given by the petitioner within a time frame as stipulated by this Court.



For Petitioner : Mr.D.Dayanithi
For Respondents 2 to 6 : Mr.A.Selvendran
Special Government Pleader

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ORDER

[Order of this Court was delivered by T.RAJA, J.]

Mr.M.Krishnan @ Chinni Krishnan, S/o.Late Madurai, residing at T.C.Colony, Keizhmudalambedu Village and Post, Gummudipoondi Taluk, Thiruvallore District has filed this Writ Petition seeking issuance of Writ of Mandamus under Article 226 of the Constitution directing the second respondent to consider and dispose of his Revision Petition dated 28.02.2022 within a reasonable time.

2.Learned Counsel for the petitioner would submit that the petitioner has been in occupation and enjoyment of Aanatheenam land comprised in Survey No.315/4 having an extent of 0.25 cents situated at Keizhmudalambedu Village-II, Gummudipoondi Taluk, for more than 25 years. Earlier, his predecessors have made the land fit for cultivation after a better reclamation with great difficulties. When they have been in occupation and enjoyment of the land by cultivating jasmine for eking out their livelihood, the seventh respondent having developed grudge against the possession of the said Aanatheenam land by the petitioner, made a representation to the respondents 3 to 6. Therefore, the sixth respondent initiated eviction proceedings against the petitioner in respect of the said land by issuing notice under Section 6 of the Tamil Nadu Land Encroachment Act, 1905. For which, the petitioner has given his reply on 18.10.2021 making it clear that he has been carrying on agricultural activities by cultivating jasmine flowers. He has also mentioned that he has been ready and willing to pay tax and penalties as per the Revenue Standing Orders. But the request of the petitioner was ignored and after passing the order under Section 7, the petitioner has been issued with proceedings under Section 6 of the Tamil Nadu Land Encroachment Act, 1905 against which he has preferred an appeal under Section 10 of the Tamil Nadu Land Encroachment Act, 1905 before the Collector, Tiruvallur/the third respondent herein who has also rejected his case. Aggrieved thereby, the petitioner has filed a revision under Section 10-A of the Act before the second respondent but the Revisional Authority has not taken the matter. In the meanwhile, he has been facing threat of eviction. Apprehending forced eviction, the petitioner has come to this Court with the present Writ Petition. Learned Counsel for the petitioner also submitted that during the pendency of the revision, the petitioner should not be dispossessed.



3.Mr.A.Selvendran, learned Special Government Pleader appearing for the respondents 1 to 6, drawing the attention of this Court to Section 10-B of the Tamil Nadu Land Encroachment Act, 1905, submitted that if the petitioner is approached the Revisional Authority under Section 10B, he can also ask for order of interim stay, leaving that forum, he cannot come to this Court. Therefore, he prays this Court that the writ petition may be dismissed as not maintainable.

4.Section 10B of the Tamil Nadu Land Encroachment Act, 1905 is extracted hereunder:

10B. Stay pending decision in appeal or revision.- Pending the disposal of any appeal or application or proceedings for revision under this Act, the Collector, the District Collector, Substituted for the words "by the Board of Revenue by section 4(iii) of the [the appellate authority], [the Commissioner of Land Administration] or the State Government, as the case may be, may, by order, and subject to such conditions as may be specified therein, stay the execution of the decision or order appealed against or sought to be revised.

5.On a perusal of the above provision, we find merits on the submission of the learned Special Government Pleader appearing for the respondents 1 to 6. It is for the petitioner to work out his remedy before the appropriate authority under Section 10B of the Tamil Nadu Land Encroachment Act, 1905. Therefore, the writ petition fails and the same is dismissed as not maintainable. However, the revisional authority shall consider the urgent request of the petitioner for speedy disposal of the revision. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

srm

To

1.The Principal Secretary,
Revenue Department,
Fort St. George,
Chennai - 600 009.

2.The Commissioner,
Land Administration,
Ezhiyilagam, Chennai - 5.



3.The District Collector,
Office of the District Collector,
Thiruvallore District.

4.The District Revenue Officer,
Office of the District Revenue Officer,
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Office of the Revenue Divisional Officer,
Ponneri, Thiruvallore District.

6.The Tahsildar,
Gummudipoondi Taluk,
Thiruvallore District.

+1 cc to Mr.S.Gopi, Advocate Sr.NO.18068
+1 cc to Government Pleader Sr.NO. 18169

W.P.No.5884 of 2022

RK(CO)
A.SK(11/04/2022)