



WEB COPY

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.6044 OF 2022 and WMP.No.6129/2022

T.Aakashdurai

... Petitioner

-vs-

1. The State of Tamil Nadu
rep. by its Principal Secretary to Government,
Revenue and Disaster Management,
Secretariat, Chennai-600 009.

2. The District Collector,
Kallakurichi District,
Kallakurichi-606 202.

3. The Thasildhar,
Chinnasalem Taluk,
Kallakurichi District.

4. The Block Development Officer (VP),
Kallakurichi, Kallakurichi District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking for issuance of a Writ of Mandamus, forbearing the respondents 2 to 4 from proceeding with the notice issued under Section 6 of the Tamil Nadu Land Encroachment Act, dated 07.11.2019 pending disposal of the statutory revision before the 1st respondent dated 04.02.2022 and consequently, direct the 1st respondent to dispose of the revision petition filed by the petitioner within a time frame fixed by this Court.

For Petitioner : Mr.N.G.R.Prasad
for Mr.K.C.Karl Marx

For Respondents : Mr.A.Selvendran,
Spl. Govt. Pleader for R1 to R3

Mrs.Meera Arumugam,
AGP for 4th respondent



ORDER

(Order of the Court was made by T.RAJA, J.)

WEB COPY This Writ Petition has been filed seeking for issuance of a Writ of Mandamus, forbearing the respondents 2 to 4 from proceeding with the notice issued under Section 6 of the Tamil Nadu Land Encroachment Act, dated 07.11.2019 pending disposal of the statutory revision before the 1st respondent dated 04.02.2022 with a consequential direction directing the 1st respondent to dispose of the revision petition filed by the petitioner within a time frame fixed by this Court.

2. Mr.N.G.R.Prasad, learned Counsel appearing for the petitioner would submit that the petitioner being an agriculturalist and a permanent resident of Madhavacherry Village, Kachirayapalayam Post, Chinna Salem Taluk, Kallakurichi District, possess 0.25.0 hectares of punja agricultural patta land in Survey No.184/14 in that Madhavacherry Village. He has also constructed a RCC house in the southern portion of the above said patta land abutting 40 feet State Highway. After approving his house, the house tax was also assessed by Madhavacherry Village Panchayat and the petitioner is paying the house tax regularly. But one local politician by name K.Ramachandran made a complaint that the petitioner has encroached upon a water body and constructed a compound wall outside his property. Therefore, the 4th respondent has issued a notice under Section 7 of the Tamil Nadu Land Encroachment Act, 1905 to show cause as to why the alleged encroachment of 0.40 ares in S.No.196 should not be removed. On receipt of the same, a detailed reply was given by the petitioner on 16.11.2019. But, finally, the Block Development Officer (VP), Kallakurichi, Kallakurichi District, without considering the explanation of the petitioner to the Section 7 notice, issued a notice under Section 6 of the Act.

3. Concluding his arguments, learned Counsel for the petitioner would submit that after the issuance of the notice under Section 7 of the Act followed by Section 6 of the Act issued by the Block Development Officer, Kallakurichi, the petitioner has also filed an appeal before the District Collector under Section 10-A of the Tamil Nadu Land Encroachment Act, 1905. Since the District Collector, Kallakurichi District, Kallakurichi has not considered the case of the petitioner properly, he has filed a revision before the 1st respondent. Therefore, the same has to be considered, he pleaded.

4. Mr.A.Selvendran, learned Special Government Pleader appearing for the respondents 1 to 3 referring to Section 11 of the Tamil Nadu Land Encroachment Act, 1905 would submit that



since the order under Section 6 of the Act was passed one year ago, there is no provision under Section 11 of the Act to file a belated revision before the Government, therefore, the same is liable to be rejected. However, referring to Section 11(4) of the said Act, he has fairly stated that the 1st respondent Government if satisfies that the petitioner has got sufficient cause in not preferring the appeal within the time stipulated, the same can be entertained.

5. Considering the facts and circumstances of the matter, more particularly, the fact that covid-19 pandemic situation has created a stagnant everywhere and this Court as well as the Hon'ble Apex Court has also passed an order excluding the Covid-19 period i.e. from 15.03.2020 till 14.03.2021 and subsequently till 28.02.2022. The relevant portion of the order passed by the Apex Court in Miscellaneous Application No.21/2022 in Miscellaneous Application No.665 of 2021 in Suot Motu Writ Petition (C) No.3 of 2020 dated 10.01.2022 is given as under:

''Taking into consideration the arguments advanced by learned counsel and the impact of the surge of the virus on public health and adversities faced by litigants in the prevailing conditions, we deem it appropriate to dispose of the M.A. No. 21 of 2022 with the following directions:

I. The order dated 23.03.2020 is restored and in continuation of the subsequent orders dated 08.03.2021, 27.04.2021 and 23.09.2021, it is directed that the period from 15.03.2020 till 28.02.2022 shall stand excluded for the purposes of limitation as may be prescribed under any general or special laws in respect of all judicial or quasi judicial proceedings.

II. Consequently, the balance period of limitation remaining as on 03.10.2021. if any, shall become available with effect from 01.03.2022.

III. In cases where the limitation would have expired during the period between 15.03.2020 28.02.2022. notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 01.03.2022. In the event the actual balance period of limitation remaining, with effect from 01.03.2022 is greater than 90 days, that longer period shall apply.

IV. It is further clarified that the period from 15.03.2020 till 28.02.2022 shall also stand excluded in computing the periods prescribed under Sections 23 (4) and 29A of the Arbitration and Conciliation Act, 1996, Section 12A of the Commercial Courts Act. 2015 and provisos (b) and (c) of Section 138 of the Negotiable Instruments Act, 1881 and any other laws, which prescribe period(s) of limitation for instituting



proceedings, outer limits (within which the court or tribunal can condone delay) and termination of proceedings.''

6. In view of the above, we hereby direct the 1st respondent, namely, Principal Secretary to Government, State of Tamil Nadu, Revenue and Disaster Management, Secretariat, Chennai-9, to consider the revision filed by the petitioner dated 04.02.2022 after condoning the delay and pass appropriate orders on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of this Order. Till then, no coercive steps shall be taken by the respondents.

7. With the above observation and direction, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

tsi

To

1. The Principal Secretary to Government,
State of Tamil Nadu,
Revenue and Disaster Management,
Secretariat, Chennai-600 009.
2. The District Collector,
Kallakurichi District,
Kallakurichi-606 202.
3. The Thasildhar,
Chinnasalem Taluk,
Kallakurichi District.
4. The Block Development Officer (VP),
Kallakurichi, Kallakurichi District.

+1cc to Mr.K.C.Karl Marx, Advocate, S.R.No.17715

+1cc to the Government Pleader, S.R.No.18171

W.P.No6044 of 2022

RLD (CO)
KM(21/03/2022)