



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.03.2022

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA
AND
THE HONOURABLE MR.JUSTICE S.SOUNTHAR

W.P.NO.6383 OF 2022

Dr.Ambedkar Public Social
Welfare Association,
(REGN. No.340/1994),
Rep. By its Secretary,
S.Suresh Kumar,
Duraikannu Salai Main Road,
Zamin Pallavaram,
Pallavaram, Chennai.

... Appellant

Versus

1. The District Collector,
Chengalpet District.
2. The Tahsildar,
Pallavaram,
Chengalpet.

... Respondents

PRAYER:- Writ Petition has been filed under Article 226 of the Constitution of India seeking for issuance of a writ of mandamus to direct the first respondent to dispose the interim stay application filed by the petitioner vide appeal dated 08.03.2022 preferred under Section 10 read with 10-A as against the notices issued by the second respondent under Sections 6 and 7 of the Tamil Nadu Land Encroachment Act which was alleged to have been affixed on Dr.Ambedkar Statute but the same was actually received from the second respondent on 07.03.2022 and till then direct the respondents not to take any coercive action in respect of Town Survey No.55, Zamin Pallavaram Village, Pallavaram Taluk.

For Petitioner : Mr.NGR.Prasad
For Mr.R.Thirumoorthy

For Respondents : Mr.A.Selvendran
Special Government Pleader



JUDGMENT

(Judgment of the Court was delivered by T.RAJA, J.)

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Dr.Ambedkar Public School Welfare Association, represented by its Secretary Mr.S.Suresh Kumar, has filed this writ petition seeking for issuance of a writ of mandamus to direct the first respondent/the District Collector, Chengalpet District, to dispose the interim stay application filed by the petitioner vide appeal dated 08.03.2022 preferred under Section 10 read with 10-A of the Tamil Nadu Land Encroachment Act (in short "the Act") as against the notices issued by the second respondent/the Tahsildar, Pallavaram, under Sections 6 and 7 of the Act.

2. When the matter is taken up, Mr.N.G.R.Prasad, learned counsel for the petitioner submitted that the Tahsildar, Pallavaram/second respondent herein has issued a notice under Section 7 of the Act on 22.10.2021 and thereafter, action has been taken under Section 6 of the Act on 14.12.2021. Aggrieved thereby, an appeal has been filed under Section 10 of the Act on 08.03.2022. When the statutory appeal filed by the petitioner is pending before the District Collector/first respondent, the same deserves to be disposed of in accordance with law, otherwise, the petitioner would be deprived of his legal rights.

3. In reply, Mr.A.Selvendran, learned Special Government Pleader, submitted that the petitioner has not filed an appeal within 30 days from the date of notice issued under Section 6 of the Act on 14.12.2021, especially when same was also served on the same date by affixing said notice on the compound wall. However, Mr.N.G.R. Prasad, learned counsel for the petitioner, stated that the said notice has not been served on the petitioner.

4. It is further stated by the learned Special Government Pleader that the belated appeal filed by the petitioner cannot be entertained, for, pursuant to the order passed by this Court in Contempt Petition No.208 of 2021 in W.P.No.32460 of 2019, dated 30.09.2021, directing the Tahsildar, Pallavaram, to report compliance, the said Authority has filed two status report stating that the alleged encroachment would be removed. Therefore, at this stage, the respondents need not be directed to dispose of the appeal filed by the petitioner in the present case.

5. However, this Court, without going into the merits of the matter, taking note of the fact that the appeal preferred by the petitioner under Section 10 of the Act is pending before the first respondent herein and that there is also a provision for



condoning the delay under Section 11(4) of the Act, directs the first respondent to dispose of the appeal dated 08.03.2022 filed by the petitioner on merits and in accordance with law, as expeditiously as possible, after providing an opportunity of personal hearing to the aggrieved parties. With this direction, the writ petition stands disposed of. No Costs.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

1. The District Collector,
Chengalpet District.
2. The Tahsildar,
Pallavaram,
Chengalpet.

+1cc to the Government Pleader, S.R.No.21379

W.P.NO.6383 OF 2022

MG (CO)
PBS/01/04/2022