



WEB COPY

IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 02.06.2022

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH
AND
THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.No.13854 of 2022
and
WMP.No.13121 to 13124 of 2022

1. J.Ponnusamy
2. N.Madhesh .. Petitioners

Vs

1. The District Collector
Dharmapuri District
Dharmapuri.
2. The Tahsildar
Pennagaram Taluk
Pennagaram, Dharmapuri District.
3. The Revenue Inspector
Panaikulam Village, Kiddampatty Post
Pennagaram Taluk, Dharmapuri District.
4. The Village Administrative Officer
Penaikulam Village, Kiddampatty Post
Pennagaram Taluk, Dharmapuri District. .. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned notice dated 25.08.2021 issued by the third respondent herein under Section 7 and the consequential notice of eviction dated 09.05.2022 (served on 14.05.2022) issued by the second respondent herein under Section 6 of the Tamil Nadu Land Encroachment Act, 1905, quash the same as without jurisdiction and unsustainable in law and issue consequential directions to the respondents herein to desist from interfering with the peaceful possession and occupation of the petitioner's land of an extent of 04.04.10 and 0.00.61 hectares respectively in Old Survey No.405/1, New Survey No.405/69F and 405/69E (wrong mentioned as Survey No.405/69 in impugned notices) respectively in Panaikulam Village Pennagaram



Taluk, Dharmapuri District, which is classified as Grama Natham Land in Revenue records.

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For Petitioners : Mr.R.Thamaraiselvan
For Respondents : Mr.J.Ravindran
Additional Advocate General
Assisted by
Mr.A.Selvendran
Special Government Pleader
for respondents 1 to 4

ORDER

(Order of the Court was made by M.S.Ramesh,J)

The notice dated 25.08.2021 issued under Section 7 of the Tamil Nadu Land Encroachment Act, 1905 and the consequential notice of eviction dated 09.05.2022 issued under Section 6 of the Tamil Nadu Land Encroachment Act, 1905 are under challenge in the present writ petition.

2. As against these impugned notices, the petitioners herein have also filed an appeal before the first respondent on 16.05.2022, in which they have also moved an application seeking an interim stay of the proceedings. The stay application is yet to be disposed by the first respondent herein. It is the apprehension of the petitioners that coercive action may be taken to evict them from the premises when the appeal is pending.

3. We are of the view that when the petitioners had already preferred an appeal in which they have also sought for a stay, it would not be appropriate for us to parallelly adjudicate the proceedings. Nevertheless, if the appellate authority is directed to dispose of the stay application within a stipulated time and in the meantime, the interest of the petitioner is protected, the ends of justice could be secured.

4. In the light of the above observation, there shall be a direction to the first respondent herein to dispose of the stay application filed in the appeal preferred on 16.05.2022 within a period of eight weeks from the date of receipt of copy of this order. Till the disposal of the stay application, the respondents shall not take any coercive action pursuant to the impugned notices dated 25.08.2021 and 09.05.2022 issued under Sections 7 and 6 of the Tamil Nadu Land Encroachment Act, 1905 respectively.



5. In view of the above, the writ petition is disposed of. Consequently, WMP Nos.13123, 13124, 13121 and 13122 of 2022 are also closed. There will be no order as to costs.

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Sd/-
Deputy Registrar (CS)

//True Copy//

Sub Assistant Registrar

kpl/drm

To

1. The District Collector
Dharmapuri District
Dharmapuri.
2. The Tahsildar
Pennagaram Taluk
Pennagaram, Dharmapuri District.
3. The Revenue Inspector
Panaikulam Village, Kiddampatty Post
Pennagaram Taluk, Dharmapuri District.
4. The Village Administrative Officer
Penaikulam Village, Kiddampatty Post
Pennagaram Taluk, Dharmapuri District.

+1cc to Mr.R.Thamarai Selvan, Advocate, S.R.No.32033

+1cc to the Government Pleader, S.R.No.32080

W.P.No.13854 of 2022

GPL (CO)
UMA (14/06/2022)