

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.10.2022

CORAM :

THE HON'BLE MR.T.RAJA, ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.26487 of 2022

C.Lakshmi

.. Petitioner

Vs

1 The District Collector
District Collectorate
Dharmapuri.

2 The Sub Collector
District Collectorate
Dharmapuri.

3 The Tahsildar
Karimangalam Taluk
Dharmapuri District.

4 The Revenue Inspector
Karimangalam Taluk
Dharmapuri District.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of mandamus directing the respondents to dispose of the appeals dated 29.08.2022 and 5.09.2022 filed by the

petitioner and consequently direct the 3rd respondent to grant patta in favour of the petitioner in respect of land measuring Ac.1.60 cents in Survey No.4/17, Molappanahalli Village, Karimangalam Taluk, Dharmapuri District.

For the Petitioner : Mr.R.Ramesh Raja

For the Respondents : Mr.P.Muthukumar
State Government Pleader

ORDER

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

C.Lakshmi, wife of Late Chinnasamy, resident of Molappanahalli Village, Karimangalam Taluk, Dharmapuri District, has brought this writ petition for issuance of a limited direction/order directing the respondents herein to dispose of the appeals dated 29.8.2022 and 5.9.2022 and to further direct the third respondent to grant patta in favour of the petitioner in respect of the land measuring Ac.1.60 cents in Survey No.4/17, Molappanahalli Village, Karimangalam Taluk, Dharmapuri District.

2. When the matter was taken up, Mr.P.Muthukumar, learned State Government Pleader, placing on record a notice issued to the

petitioner dated 8.10.2022 fixing the hearing of appeal at 10.30 am on 13.10.2022, submitted that the prayer made by the petitioner for early disposal of the appeals has become infructuous, since the appeals have been fixed for final hearing on 13.10.2022.

3. Learned State Government Pleader further submitted that during the pendency of the appeals filed under Section 10 of the Tamil Nadu Land Encroachment Act, 1905 [for brevity, "the Act"], by virtue of Section 10-B of the Act, the petitioner, if she apprehends any coercive action, can file an application seeking stay of any proceedings pending decision in the appeal or revision. Therefore, coming to this court sidelining the statutory provision is not tenable.

4. Learned counsel appearing for the petitioner brought to our notice the pendency of a civil suit, being O.S.No.11 of 2021, on the file of the District Munsif Court, Palacode, seeking bare injunction against the respondents.

5. We are unable to find any justification in either filing the civil suit before the District Munsif Court, Palacode, seeking bare injunction

or in making a prayer to forbear the respondents from taking any coercive action pending disposal of the appeals filed by her.

6. At this juncture, it is apposite to extract Section 14 of the Act hereunder:

"14. Bar of Jurisdiction of Courts.- Notwithstanding anything contained in any law, for the time being in force, no order passed or proceeding taken by any officer of authority or the State Government under this Act, shall be called in question in any court, in any suit or application and no injunction shall be granted by any court in respect of any action taken or to be taken by such officer or authority or the State Government in pursuance of any powers so conferred by or under this Act."

7. A bare perusal of the above provision makes it clear that the jurisdiction of the civil court is ousted. When once the jurisdiction of the civil court is ousted and the Act provides for appellate and revisional remedy, the petitioner ought to have taken such recourse and, therefore, the suit is not legally maintainable in view of the specific bar under Section 14 of the Act.

8. In case the petitioner apprehends any coercive action during the pendency of the appeals, the petitioner has an effective statutory remedy of filing an application for stay under Section 10-B of the Act. Therefore, such interim relief during the pendency of the appeals cannot be granted by this court.

9. In such view of the matter, the writ petition is disposed of with a direction to the respondent authority to proceed further pursuant to the notice dated 8.10.2022 directing the petitioner to appear on 13.10.2022 and pass appropriate orders on merits and in accordance with law within a period of three weeks from the date of receipt of a copy of this order. There will be no order as to costs. Consequently, W.M.P.No.25549 of 2022 is closed.

(T.R., ACJ.) (D.K.K., J.)
10.10.2022

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T.RAJA, ACJ.
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D.KRISHNAKUMAR,J.

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