



W.P.No.30817 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.11.2022

CORAM :

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

AND

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

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D.Krishnamoorthy

.. Petitioner

Vs

1 The Government of Tamil Nadu
rep. by its Secretary, Fort St. George
Chennai – 600 009.

2 The District collector
Kancheepuram District
Vandavasi Road
Kancheepuram - 631 001.

3 The Tahsildar
Uthiramerur, Kancheepuram.

4 The Revenue Inspector
Thirupulivanam
Kancheepuram.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of mandamus directing the first respondent herein to number the statutory Revision Petition dated 16.09.2022



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filed under Section 10-A of the Tamil Nadu Land Encroachment Act, 1905 challenging the Eviction Notice in S.M.Na.Ka.No.11313/2022/A4, dated 19.07.2022 passed by the 2nd respondent herein and to dispose of the same in accordance with law after giving due opportunity to the petitioner.

For the Petitioner : Mrs.Revathi Manivannan

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

ORDER

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

D.Krishnamoorthy, son of Duraisamy Pillai, has filed this writ petition seeking issuance of a writ of mandamus directing the first respondent herein to number the statutory Revision Petition dated 16.09.2022 filed under Section 10-A of the Tamil Nadu Land Encroachment Act, 1905 [for brevity, "*the Act*"] challenging the Eviction Notice in S.M.Na.Ka.No.11313/2022/A4, dated 19.07.2022, passed by the second respondent herein and to dispose of the same in accordance with law after giving due opportunity to the petitioner.

2. According to learned counsel for the petitioner, the land measuring 1.24.0 hectares in Survey Nos.4/1, 4/3, 5/7 and 5/8 in Vengachery Village, Thirupulivanam Circle, Uthiramerur Taluk,



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Kancheepuram District, was in possession of the petitioner's father and used for agricultural purpose. The petitioner's father had been paying property tax and other statutory duties without any default. The petitioner's father orally settled the property in favour of his wife, Chinnammal. The government granted patta bearing No.65 only for an extent of 0.50.5 hectares and she was not granted patta for the lands in Survey Nos.4/3 and 5/7.

3. It is further submitted that the petitioner's mother settled the property to an extent of 0.50.5 hectares in favour of the petitioner vide Settlement Deed dated 17.11.2014 registered as Document No.7692 of 2014 in the office of the Sub Registrar, Uthiramerur. Thereafter, mutation of records was effected and Patta No.807 was assigned in favour of the petitioner. The petitioner's mother retained the remaining extent of land and was cultivating the same. The petitioner, on behalf of his mother, sent representations on 3.5.1991 and 5.4.2014 to the third respondent seeking grant of patta for lands in Survey Nos.4/3 and 5/7, but the same did not evoke any response.



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4. It is the case of the petitioner that pursuant to the death of his mother on 21.5.2017, the land admeasuring 0.73.5 hectares in Survey Nos.4/3 and 5/7 devolved upon him, being the sole legal heir of Chinnammal, and the petitioner has been in possession of the said lands and was paying all the statutory duties to the authorities concerned. The petitioner, by way of an oral settlement, settled 0.43.5 hectares in Survey No.4/3 to one K.Gokul and informed the same to the Village Administrative Officer. The remaining property admeasuring 0.30.0 hectares in Survey No.5/7 [hereinafter referred to as "*the schedule property*"], was retained by the petitioner. It is the plea of the petitioner that the government officials refused to collect property tax for the schedule property, though the petitioner was ready and willing to pay the same.

5. It is submitted that the third respondent wrongly classified the schedule property as "Punjai Anadheenam" and issued a show cause notice dated 17.5.2022 under Section 7 of the Act calling upon the petitioner to attend an enquiry or file written objections within 15 days of receipt of notice as to why he should not be evicted from the schedule property. Though the petitioner submitted his objection on



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30.5.2022, it is alleged that the third respondent passed an order of eviction on 3.6.2022 directing the petitioner to vacate the schedule property. Assailing the said order, the petitioner preferred an appeal under Section 10 of the Act. The petitioner also filed a civil suit in O.S.No.141 of 2022 for declaration to declare that the petitioner is the absolute owner of the schedule property and the suit is pending.

6. It is stated that the summons in the appeal issued on behalf of the second respondent dated 9.7.2022 was served on the petitioner only at 8 pm for the hearing scheduled on 11.7.2022. The advocate representing the petitioner in the appeal sought 15 days' time for filing additional documents and making submissions. However, the second respondent, vide proceedings dated 19.7.2022, dismissed the appeal of the petitioner. Assailing the aforesaid order, the petitioner filed a revision before the Commissioner of Land Administration on 29.7.2022, who, by order dated 30.8.2022, informed the petitioner that the revision lies before the Secretary to the Government as against the order of the Collector. The petitioner, therefore, filed a revision under Section 10-A of the Act before the first respondent with an application seeking condonation of delay of



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24 days. Apprehending that pending consideration of the revision, the respondents would dispossess the petitioner from the schedule property, the present writ petition has been filed.

7. The entire dispute pertains to 0.30.0 hectares in Survey No.5/7. It is the case of the petitioner that he has been paying all the statutory duties to the authorities concerned. Admittedly, the petitioner preferred a revision under Section 10-A of the Act before the Commissioner of Land Administration, Chennai, who is not the competent authority to consider the revision. Therefore, by order dated 30.8.2022, the Commissioner of Land Administration observed as under:

"3. In view of the above considered position, this Revision petitioner is hereby informed to file revision before the Appropriate Authority i.e. The Secretary to Government, Secretariat, Chennai 9 as per the provisions made u/s 10(A)(1)(c) of TNLEA act, if so desired."

8. Pursuant to the aforesaid order dated 30.8.2022, the petitioner filed a revision before the first respondent on 16.9.2022,



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with an application to condone the delay of 24 days on account of filing of the revision before the authority which is not competent to consider the revision.

9. Considering the aforesaid facts and circumstances, we hereby dispose of the writ petition with a direction to the first respondent to consider the revision and the application for condonation of delay filed by the petitioner on merits and in accordance with law after affording an opportunity of hearing to the petitioner. Such orders shall be passed by the first respondent within four weeks from the date of receipt of a copy of this order. Till the disposal of the revision the parties are directed to maintain status-quo.

There will be no order as to costs. Consequently, W.M.P.No.30241 of 2022 is closed.

(T.R., ACJ.) (D.K.K., J.)
21.11.2022

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