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Rev.Aplw.No.257 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.12.2022

CORAM :

**THE HONOURABLE MR.JUSTICE R.MAHADEVAN
and
THE HONOURABLE MRS.JUSTICE N.MALA**

Rev.Aplw.No.257 of 2022

in

W.P.No.23868 of 2022

1. Duraisamy
2. Senthil Kumar
3. Suresh Kumar
4. Karpagam
Petitioners

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Vs.

1. The District Collector,
Perambalur District.

2. The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Perambalur Division, Perambalur.

3. The Tahsildar,
Veppanthattai Taluk,
Perambalur District.

4. Subramani
5. Pushpa
Respondents

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PRAYER: This Petition is filed under Order XLVII Rule 1 Read with Section 114 of C.P.C, to review the order dated 06.09.2022 in WP.No.23868 of 2022.

For Petitioners : Mr.G.Ilamurugu
For R1 to R3 : Mr.P.Muthukumar,
Government Pleader

ORDER

(Order of the Court was made by R. MAHADEVAN, J.)

According to the Review Applicants, they filed a Writ Petition in WP.No.23868 of 2022 challenging the proceedings dated 01.06.2022 passed by the third respondent under Section 6 (2) of the Tamil Nadu Land Encroachment Act, 1905 (in short, "the Act"). However, by order dated 06.09.2022, the said Writ Petition was dismissed, on the ground that the land in S.No.764/1 is a Government Poramboke pathway and therefore, notice for eviction was rightly issued by the official respondents. The said order is sought to be reviewed in this review application.

2. It is the submission of the learned counsel for the review applicants



that the applicants were given patta / assignment of land in S.Nos.764/25, 764/26 and 764/27, pursuant to which, they are residing there peacefully. It is only at the instance of the private respondents 4 and 5, the assignment so conferred was cancelled. Challenging the order of cancellation of assignment, the Review Applicants preferred an appeal, which is still pending. It is further submitted by the learned counsel that since the Review Applicants have been paying the taxes regularly, without any default, the official respondents could not have initiated action under the Act. It is only to facilitate the private respondents 4 and 5, the patta issued in favour of the Review Applicants was cancelled and now, the impugned action has been initiated to evict them from their Natham land. It is also contended by the learned counsel that though sufficient space was given to provide pathway to the private respondents, yet, the official respondents have caused notice in an illegal manner and thereafter, passed an order under Section 6(2) of the Act, after reclassifying the “Natham” land as “Government Promboke”. Referring to the order dated 11.10.2018 passed in W.P.Nos.26234 of 2018 and 26237 of 2018, the learned counsel submitted that once the property is classified as Natham, the Revenue Officials have no right or title over the same. Therefore, the learned counsel sought to



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review the order passed in the writ petition.

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3. After elaborate submissions, the learned counsel for the review applicants ultimately submitted that as against the order, which was impugned in the writ petition, there is an alternative remedy available to the review applicants and hence, they may be permitted to file an appeal under Section 10 of the Tamil Nadu Land Encroachment Act, 1905 before the District Collector.

4. In view of the above, this Court grants liberty to the Review applicants to file an appeal before the competent authority within a period of two weeks from the date of receipt of a copy of this order. On such filing, the authority concerned shall consider the same and pass appropriate orders on merits and in accordance with law, after affording an opportunity of hearing to all the parties, as expeditiously as possible.

5. Accordingly, this Review petition stands disposed of. No costs.

[R.M.D., J.] [N.M., J.]
23.12.2022

Internet : Yes / No
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