



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.02.2022

CORAM :

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

and

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

WEB COPY

W.P(MD)No.1986 of 2022
and WMP(MD)No.1708 of 2022

C.Sahaya Mary

... Petitioner

vs.

1) The District Collector,
Sivagangai District,
Sivagangai.

2) The Revenue Divisional Officer,
Devakottai,
Sivagangai District.

3) The Tahsildar,
Devakottai Taluk,
Sivagangai District.

4) The Deputy Tahsildar,
Devakottai Taluk,
Sivagangai District.

5) The Revenue Inspector,
Pulial Village,
Thiruvadanai Taluk,
Sivagangai District.

... Respondents

Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, calling for the records pertaining to the order passed by the 3rd respondent vide his proceedings in Na.Ka.No.A/3/4283/2020 dated 07.10.2021 and quash the same.

For Petitioner : Mr.A.Jayaramachandran
For R1 to R3 : Mr.P.Subbaraj
Special Government Pleader

ORDER

(Order of the Court was made by **PUSHPA SATHYANARAYANA, J.**)

The order impugned is the one passed by the 3rd respondent dated 07.10.2021 under Section 6 of the Tamil Nadu Land Encroachment Act, 1905.

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2. The notice under Section 7 of the Act was issued on 08.10.2020 and it is claimed by the petitioner that W.P(MD)No.14921 of 2020 filed challenging the said notice. Section 7 notice itself is a show cause notice issued calling upon the encroacher to show cause why before a certain date he/she should not be proceeded against under Section 6 of the Act.

3. In the instant case, after receiving Section 7 notice, a representation has been given by the writ petitioner and she was called for an enquiry. The writ petitioner has appeared before the authorities. After considering the evidence given by the writ petitioner and other such encroachers, the order of eviction has been passed by the Tahsildar which is now impugned. The order further states that as per the directions of the Hon'ble Supreme Court as well as this Court that any encroachment on the water bodies should be removed without any hesitance and restore the same. The Tahsildar also has further found that the petitioner has not filed any document of title to substantiate her possession in her own capacity. There is a specific finding also that the land encroached is a water body classified as Odai which has been in the use of general public.

4. The said order passed under Section 6 is to be challenged in appeal under Section 10 of the Act. Section 10 provides for an appeal to the Collector from any decision or order passed by the Tahsildar or Deputy Tahsildar under the Act and any decision passed by the District Collector thereafter is appealable before the Commissioner of Land Administration. While so, without resorting to the appeal provision before the District Collector, the petitioner has rushed to this Court invoking Article 226 of the Constitution. When there is an appeal remedy which is statutorily provided, without exhausting the same, the writ petition is filed and the same is not maintainable.

5. Accordingly, the Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CRL SIDE)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To

- 1) The District Collector,
Sivagangai District,
Sivagangai.
- 2) The Revenue Divisional Officer,
Devakottai,
Sivagangai District.
- 3) The Tahsildar,
Devakottai Taluk,
Sivagangai District.
- 4) The Deputy Tahsildar,
Devakottai Taluk,
Sivagangai District.
- 5) The Revenue Inspector,
Pulial Village,
Thiruvadanai Taluk,
Sivagangai District.

ORDER MADE IN
W.P(MD)No.1986 of 2022
DATED : 02.02.2022

SB(CO)
TR(10.02.2022) 3P 6C