



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.02.2022

CORAM:

**THE HONOURABLE MR.JUSTICE PARESH UPADHYAY
AND**

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P (MD)No.2411 of 2022

and

W.M.P (MD) Nos.2085 and 2086 of 2022

G.N.Prabhakaran

... Petitioner

Vs.

1. The District Collector,
Collectorate, Tirunelveli.
2. The Revenue Divisional Officer,
Revenue Divisional Office,
Cheranmahadevi,
Tirunelveli District.
3. The Tahsildar,
Tahsildar Office,
Ambasamudram Taluk,
Tirunelveli District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, calling for the records of the impugned order passed by the second respondent herein in his proceedings in Na.Ka.No.A2/9683/2021 dated 24.01.2022 and annexed proceedings and quash the same as illegal and further direct the first respondent herein to hear the appeal filed under Section 10 of the Tamil Nadu Land Encroachment Act, 1905 in accordance with law.

For Petitioner : Mr.D.Nallathambi

For Respondents : Mr.J.Ashok

O R D E R

(Made by PARESH UPADHYAY, J.)

Challenge in this petition is made to the order dated 24 January 2022 passed by the second respondent.

2. Learned advocate for the petitioner has submitted that, the order passed by the second respondent is without authority of law in

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view of Section 10 of the Tamil Nadu Land Encroachment Act, 1905. It is submitted that the impugned order being without authority of law may be interfered with by this Court.

3. Having heard learned advocate for the petitioner and having considered the material on record, this Court find that the impugned order is passed by the Revenue Divisional Officer. The said order is passed in an appeal against an order passed by the Tahsildar. The said order is purportedly passed in an appeal filed against the order of the Tahsildar. The said appeal is filed and is to be decided under Section 10 of the Act, which inter-alia provides that, the said appeal is to be made to the Collector and the same is to be decided by him or an authorized officer. The impugned order having been passed by an officer of the rank of the Revenue Divisional Officer and who functions under the Collector and who is also a higher authority vis-a-vis the Tahsildar, can not be said to be without authority of law. This argument therefore is rejected. Further, when the co-ordinate Bench of this Court at Principal Bench has taken up the issue of removing encroachment, the scrutiny by this Court would be more stricter.

4. For the above reasons, this petition i.e. W.P.(MD) No.2411 of 2022 is dismissed. Interim protection granted earlier by this court recorded on W.M.P(MD) No.18610 of 2021 in W.P(MD).No.22009 of 2021 dated 10.12.2021 would not survive and is vacated. No costs. Consequently, W.M.P(MD) Nos.2085 and 2086 of 2022 would not survive.

Sd/-

Assistant Registrar (P&A)

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/ /2022

Sub Assistant Registrar(CS)

sj

To

1. The District Collector,
Collectorate, Tirunelveli.
2. The Revenue Divisional Officer,
Revenue Divisional Office, Cheranmahadevi,
Tirunelveli District.
3. The Tahsildar,
Tahsildar Office, Ambasamudram Taluk,
Tirunelveli District.

+1CC to SPL.GP(SR.No.4814)

W.P(MD)No.2411 of 2022
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