



WEB COPY

W.P(MD)No.10000 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.05.2022

CORAM :

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

AND

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P(MD)No.10000 of 2022

and

W.M.P. (MD) .No.7126 of 2022

V.Durairaj

...Petitioner

Vs.

1.The District Collector
Collectorate Campus,
Thoothukudi, Thoothukudi District.

2.The Tahsildar,
Office of Tahsildar,
Ettaypuram Taluk,
Thoothukudi District.

3.The President,
Kadalaiyur Panchayat,
Panchayat Office Building, Kadalaiyur,
Thoothukudi District.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records relating to impugned order passed by the second respondent vide proceedings in Na.Ka.A1-3299-2020, dated 05.05.2022 and set aside the same.

For Petitioner : Mr.S.Pon Senthil Kumaran

For Respondents 1 & 2 : Mr.A.Kannan,
Additional Government Pleader

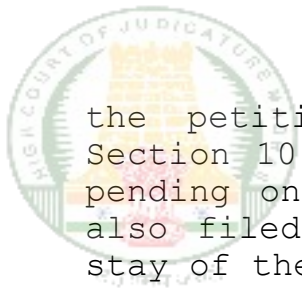
For 3rd Respondent : M/s.D.Farjana Ghoushia
Special Government Pleader

O R D E R

(Order of the Court was made by ABDUL QUDDHOSE, J.)

This writ petition has been filed challenging the order dated 05.05.2022 passed by the second respondent under Section 7 of the Tamil Nadu Land Encroachment Act, 1905. Aggrieved by the same,

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the petitioner has already preferred a Statutory Appeal under Section 10 of the Tamil Nadu Land Encroachment Act, 1905, which is pending on the file of the first respondent. The petitioner has also filed a stay application before the first respondent seeking stay of the impugned order.

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2. According to the petitioner, the same has not been considered till date. It is also the contention of the petitioner that despite filing the statutory appeal, the respondents are attempted to evict the petitioner. In such circumstances, he has filed this writ petition.

3. Heard Mr.S.Pon Senthil Kumaran, learned counsel for the petitioner, Mr.A.Kannan, learned Additional Government Pleader, who accepts notice on behalf of the respondents 1 and 2 and Ms.D.Farjana Ghoushia, learned Special Government Pleader who accepts notice on behalf of the third respondent.

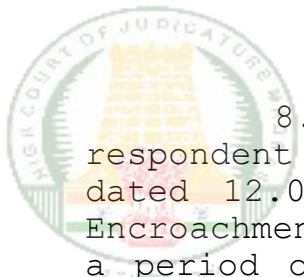
4. Admittedly, a Statutory Appeal has been filed, aggrieved by the impugned order dated 05.05.2022 passed by the second respondent under Section 7 of the Tamil Nadu Land Encroachment Act, 1905. The Appeal is pending before the first respondent. The petitioner has raised various grounds for challenging the impugned order. The main ground raised by him is that admittedly the land in Survey No.349/3 is a Government Natham Poromboke land and therefore, the provisions of the Tamil Nadu Land Encroachment Act, 1905, is not applicable.

5. This Court is of the considered view that the interest of the petitioner will have to be protected till the Statutory Appeal filed by the petitioner before the first respondent under Section 10 of the Tamil Nadu Land Encroachment Act, 1905, is disposed of.

6. The petitioner has also contended that no opportunity of hearing was granted to him in the impugned proceedings in the Statutory Appeal filed by him before the first respondent. The Statutory Appeal under Section 10 of the Tamil Nadu Land Encroachment Act, 1905 was filed by the petitioner on 12.05.2022. It is also contended by the petitioner as seen from the affidavit filed in support of the writ petition that the respondents are attempting to evict the petitioner by virtue of the impugned order.

7. After giving due consideration to the contentions made by the respective counsels, this Court is of the considered view that a direction can be issued to the first respondent to dispose of the Statutory Appeal filed by the petitioner on 12.05.2022 under Section 10 of the Tamil Nadu Land Encroachment Act, 1905, within a time frame to be fixed by this Court. Till final orders are passed, the interest of the petitioner over the property will have to be protected and therefore, a stay will have to be granted till passing

<https://hcservices.judges.gov.in/hcservices/> by the first respondent.



8. For the forgoing reasons, this Court directs the first respondent to pass final orders on the petitioner's Statutory Appeal dated 12.05.2022 filed under Section 10 of the Tamil Nadu Land Encroachment Act, 1905, on merits and in accordance with law, within a period of 12 weeks from the date of receipt of a copy of this order, after affording a fair hearing to the petitioner including granting him the right of personal hearing. Till final orders are passed by the first respondent, the respondents shall not evict the petitioner from his property.

9. With the aforementioned direction, the Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar
(Vacation Officer)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

To

1.The District Collector
Collectorate Campus,
Thoothukudi, Thoothukudi District.

2.The Tahsildar,
Office of Tahsildar,
Ettaypuram Taluk, Thoothukudi District.

3.The President,
Kadalaiyur Panchayat,
Panchayat Office Building, Kadalaiyur,
Thoothukudi District.

+1 CC to M/s.S. PON SENTHIL KUMARAN, Advocate (SR-23755[F] dated 19/05/2022)

+1 CC to M/s.SPL.GP (SR-23821[F] dated 19/05/2022)

ORDER MADE IN
W.P (MD)No.10000 of 2022
18.05.2022
(1/2)

SA(26.05.2022) 3P 6C

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