



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.10192 of 2022

and

W.M.P.(MD)Nos.7228 and 7229 of 2022

S.Subramany

...Petitioner

Vs.

1.The District Collector
Thoothukudi District,
Thoothukudi.

2.The Revenue Divisional Officer,
Revenue Divisional Office,
Kovilpatti,
Thoothukudi District.

3.The Tahsildar,
Ettaypuram,
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 of impugned proceedings in Na.Ka.A1-962-2022, dated 19.04.2022, issued by the third respondent, and quash the same.

For Petitioner : Mr.D.Selvanayagam

For Respondents : Mr.A.Kannan
Additional 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 proceedings dated 19.04.2022, issued by the third respondent under Section 6 of the Tamil Nadu Land Encroachment Act, 1905 (Tamil Nadu Act 3 of 1905). Aggrieved by the same, 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.



2. According to the petitioner, the same has not been considered till date. It is also the contention of the learned counsel for the petitioner that despite filing the statutory appeal, the respondents are attempting to evict the petitioner. In such circumstances, the petitioner has filed this Writ Petition.

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3. Heard Mr.D.Selvanayagam, learned counsel for the petitioner, Mr.A.Kannan, learned Additional Government Pleader, who accepts notice on behalf of the respondents.

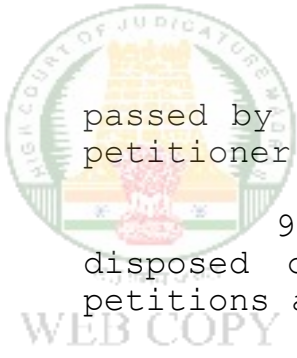
4. Admittedly, a statutory appeal has been filed, aggrieved by the impugned proceedings dated 19.04.2022, issued by the third respondent under Section 6 of the Tamil Nadu Land Encroachment Act, 1905 (Tamil Nadu Act 3 of 1905). The said appeal is pending before the first respondent. The petitioner has raised various grounds for challenging the impugned proceedings. The main ground raised by him is that, admittedly, the land in Survey No.116/1 is a 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 him 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 14.05.2022. 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 him by virtue of the impugned proceedings.

7. After giving due consideration to the contentions made by the respective learned 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 14.05.2022 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 the final orders 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 14.05.2022 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



passed by the first respondent, the respondents shall not evict the petitioner from his property.

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

Sd/-

Assistant Registrar (Vacation
Officer)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To

1. The District Collector
Thoothukudi District,
Thoothukudi.

2. The Revenue Divisional Officer,
Revenue Divisional Office,
Kovilpatti,
Thoothukudi District.

3. The Tahsildar,
Ettaypuram,
Thoothukudi District.

+1 CC to M/s.D. SELVANAYAGAM, Advocate (SR-23761[F] dated
19/05/2022)

+1 CC to M/s.SPL.GP (SR-23819[F] dated 19/05/2022)

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18.05.2022

RD(01.06.2022) 3P 6C