



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **25.05.2022**

CORAM:

**THE HONOURABLE MR.JUSTICE R. SURESH KUMAR
AND
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

W.P (MD) No.10452 of 2022

and

W.M.P (MD) No.7525 of 2022

D.Kasthuri : Petitioner

vs.

1.The District Collector,
Virudhunagar District,
Virudhunagar.

2.The District Revenue Officer,
Office of the District Revenue Officer,
Collectorate Campus,
Virudhunagar District,
Virudhunagar.

3.The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Aruppukkottai,
Virudhunagar District.

4.The Tahsildar (Revenue),
Office of the Tahsildar,
Virudhunagar,
Virudhunagar District.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to forbear the fourth respondent from demolishing the petitioner's Septic Tank pursuant to his proceedings Nil, dated 16.05.2022, pending hearing of the appeal dated 27.04.2022 filed before the second respondent and appeal dated 19.05.2022 filed before the first respondent.



For Petitioner : Mr.H.Mohamed Imran
for M/s.Ajmal Associates

For Respondents : Mr.S.R.A.Ramachandran
Additional Government Pleader

O R D E R

[Order of the Court was made by **R. SURESH KUMAR, J.**]

This Writ Petition has been filed in the nature of Mandamus, seeking to forbear the fourth respondent from demolishing the petitioner's Septic Tank, pursuant to his proceedings Nil, dated 16.05.2022, pending hearing of the appeal dated 27.04.2022, filed before the second respondent and appeal dated 19.05.2022 filed before the first respondent.

2.In respect of the property at S.No.286/5 in Pavali Village, Virudhunagar Taluk and Virudhunagar District, there has been a notice under Section 7 of the Tamil Nadu Land Encroachment Act, 1905 [in short 'the Act'] against the petitioner. In fact, as against Section 7 notice itself, an appeal seems to have been filed by the petitioner.

3.However, pursuant to Section 7 notice after completing further proceedings, the Revenue Department had passed an order under Section 6 of the said Act on 16.05.2022, directing the petitioner to remove the encroachment within 10 days, otherwise, action would be taken against the petitioner to remove it and recover money from the petitioner for the expenses to be incurred in this regard. Aggrieved over the said order, the present writ petition has been filed.

4.Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents.

5.As against the order impugned, which has been passed under Section 6 of the Act, an Appeal can very well be filed before the appellate authority under Section 10 of the Act within 30 days. Without exhausting the said appeal remedy, which is efficacious one, since the writ petition has been filed, we are view that the petitioner may be relegated to approach the appellate authority and file an appeal within time.



6.In that view of the matter, the writ petition stands disposed of with the following direction:

(i)The petitioner is relegated to approach the appellate authority by filing an appeal under Section 10 of the said Act, against the impugned order, within the limitation period as prescribed in this regard. Till the petitioner approaches the appellate authority within the limitation period of 30 days, she shall not be dispossessed.

(ii)It is open to the petitioner to seek for any interim relief in the similar line from the appellate authority under Section 10-B of the said Act and if any such application is filed along with the main appeal, the same shall be considered and an order to be passed by the appellate authority before taking of the main appeal.

7.With these orders and observations, this Writ Petition stands disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Vacation Officer/
Assistant Registrar

// True Copy //

28/05/2022

Sub Assistant Registrar(CS)

lr/smn2

To

- 1.The District Collector,
Virudhunagar District,
Virudhunagar.
- 2.The District Revenue Officer,
Office of the District Revenue Officer,
Collectorate Campus,
Virudhunagar District,
Virudhunagar.
- 3.The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Aruppukkottai,
Virudhunagar District.



4.The Tahsildar (Revenue),
Office of the Tahsildar,
Virudhunagar,
Virudhunagar District.

WEB COPY

+1 CC to M/s.SPL.GP. (SR-24143[F] dated 26/05/2022)

+1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-24129[F] dated
26/05/2022)

ORDER MADE IN
W.P (MD) No.10452 of 2022
25.05.2022

nsn(CO)
TR(28.05.2022) 4P 7C