



W.P.(MD)No.26379 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.11.2022

CORAM

THE HONOURABLE MR.JUSTICE **R.MAHADEVAN**
and
THE HONOURABLE MR.JUSTICE **J.SATHYA NARAYANA PRASAD**

W.P(MD)No.26379 of 2022
and W.M.P.(MD) No.20564 of 2022

K.Govindan

... Petitioner

Vs.

1.The District Collector,
Ramanathapuram District,
Ramanathapuram.

2.The Tahsildar,
Kamuthi Taluk,
Ramanathapuram District.

3.The Village Administrative Officer,
T.Punavasal Group,
Kamuthi Taluk,
Ramanathapuram District.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, praying to issue a Writ of Certiorari, calling for the records relating to the notice dated 27.09.2022 on the file of the Tahsildar, Kamuthi, Ramanathapuram District, the Respondent No.2 herein issued to the petitioner under the provisions of the Tamil Nadu Land Encroachment Act, 1905 and quash the same.

For Petitioner

: Mr.Y.Prakash



W.P.(MD)No.26379 of 2022

For Respondents

: Mr.N.GA.Nataraj
Government Advocate

* * *

ORDER

(Order of the Court was made by **R.MAHADEVAN, J.**)

The petitioner has come forward with this writ petition, challenging the notice dated 27.09.2022, issued by the 2nd respondent under Section 6 of the Tamil Nadu Land Encroachment Act, 1905.

2. Heard Mr.Y.Prakash, learned counsel for the petitioner and Mr.N.GA.Nataraj, learned Government Advocate, who accepts notice on behalf of the respondents. By consent of both parties, the Writ Petition is taken up for final disposal at the admission stage itself.

3. The learned counsel for the petitioner submitted that the land in Survey No.65/5, situated at T.Punavasal Village, Kamuthi Taluk, was allotted to the petitioner under the free house site patta scheme for Schedule Castes people for the purpose of putting up a house and hence, the occupation of the petitioner could not be termed as unauthorized occupation and second



W.P.(MD)No.26379 of 2022

respondent has no jurisdiction to initiate the proceedings under the Tamil Nadu Land Encroachment Act, 1905.

4. Admittedly, the writ petitioner has been served with a notice of eviction, dated 27.09.2022, issued under Section 6 the Tamil Nadu Land Encroachment Act, 1905, by the second respondent herein. Against the said notice, the petitioner has an effective alternative remedy to file an appeal before the District Collector under Section 10 of the Tamil Nadu Land Encroachment Act, 1905.

5. In view of the above, this Writ Petition stands disposed of with a direction to the petitioner to file an appeal and an application for stay along with enclosures of documents, so as to substantiate his case, before the 1st respondent - District Collector under Section 10 of the Tamil Nadu Land Encroachment Act, 1905, within a period of two weeks from the date of receipt of a copy of this order and on receipt of the same, the 1st respondent is directed to consider the same after affording an opportunity of hearing to the petitioner and any other parties, and pass orders on merits and in accordance with law within a period of six weeks therefrom. Till



W.P.(MD)No.26379 of 2022

the disposal of the appeal or the stay application to be filed, the respondents are directed to maintain *status quo* prevailing as on date. Registry is directed to return the original impugned order to the petitioner forthwith. No costs. Consequently, connected Miscellaneous Petition is closed.

[R.M.D., J.] [J.S.N.P., J.]
23.11.2022

Internet : Yes / No

Index : Yes / No

sj

To

- 1.The District Collector,
Ramanathapuram District,
Ramanathapuram.
- 2.The Tahsildar,
Kamuthi Taluk,
Ramanathapuram District.
- 3.The Village Administrative Officer,
T.Punavasal Group,
Kamuthi Taluk,
Ramanathapuram District.



WEB COPY



W.P.(MD)No.26379 of 2022

R.MAHADEVAN, J.

and

J.SATHYA NARAYANA PRASAD, J.

sj

W.P(MD)No.26379 of 2022

23.11.2022