



W.P.(MD) No.27843 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD) No.27843 of 2022
and W.M.P.(MD)No.21928 of 2022

Jeganathan

Vs.

... Petitioner

- 1.The District Collector,
Office of the Collectorate,
Ramanathapuram.
- 2.The Sub Collector,
Office of the Sub Collector,
Paramakudi,
Ramanathapuram District.
- 3.The Tahsildar,
Taluk Office,
Paramakudi,
Ramanathapuram District.

... Respondents



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PRAYER : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the 3rd respondent vide his proceeding in Na.Ka. A3/1523/2018 dated 05.12.2022 and quash the same as illegal as for as the petitioner's concerned and consequently direct the 1st respondent to dispose the Appeal dated 06.10.2022, filed under Section 10 of the Tamil Nadu Land Encroachment Act, 1905.

For Petitioner : Mr.D.Senthil

For Respondents : Mr.K.Balasubramani
Special Government Pleader.

ORDER

[Order of the Court was made by D.KRISHNAKUMAR, J.]

Challenging the proceedings of the 3rd respondent, vide his proceeding in Na.Ka.A3/1523/2018 dated 05.12.2022 and also seeking for a consequential direction to the 1st respondent, to dispose of the Appeal dated 06.10.2022, filed under Section 10 of the Tamil Nadu Land Encroachment Act, 1905, the petitioner has filed this Writ Petition.



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2. Heard Mr.D.Senthil, learned counsel for the petitioner and Mr.K.Balasubramani, learned Special Government Pleader, who takes notice for the respondents.

3. By consent of both parties, this Writ Petition is taken up for final disposal at the admission stage itself.

4. According to the petitioner, he is in possession of S.No.205/14, which is classified as Sarkar Poramboke Natham and he encroached upon the said land to an extent of 0.61.50 Ares and hence, a notice was issued to the petitioner on 05.05.2022 under Section 6 of the Tamil Nadu Land Encroachment Act, 1905. Challenging the said notice, the petitioner has preferred an appeal before the first respondent on 06.10.2022 and the same is pending. In the meantime, eviction notice was issued on 18.10.2022 by the third respondent. Challenging the said eviction notice, the petitioner has filed a writ petition in W.P.(MD)No.24644 of 2022. During the pendency of the writ petition, the authorities removed the



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alleged encroachment and in view of the subsequent, development, the aforesaid writ petition was withdrawn on 07.11.2022. Thereafter, the third respondent without considering the statutory appeal before the 1st respondent, has issued the impugned notice dated 05.12.2022 for removal of encroachment. Challenging the said notice, the petitioner has filed this Writ Petition.

5. On a perusal of the records, it is seen that the aforesaid property is classified as 'Sarkar Poramboke Natham' and therefore, the petitioner has to satisfy the Revenue Standing Order for eligibility to grant patta and the matter is still pending before the District Collector. Therefore, we are of the view that the District Collector, viz., the first respondent is directed to dispose of the petitioner's appeal dated 06.10.2022, on its own merits and in accordance with law, after giving opportunity to all the parties concerned, as expeditiously as possible, preferably, within a period of four (4) weeks from the date of receipt of a copy of this order. The petitioner is directed to file additional documents, if any, to prove his claim, before the first respondent. Till such time, the respondents are directed to maintain *status-quo* as on date.



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6. With the above direction, this Writ Petition is disposed of. No costs.

Consequently, connected miscellaneous petition is closed.

[D.K.K., J.] [R.V., J.]

09.12.2022

Index : Yes / No

Internet : Yes / No

vsm

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