



W.P.No.1979 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.01.2023

CORAM :

THE HON'BLE MR.T.RAJA, ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.1979 of 2023

M.Surendhar

.. Petitioner

Vs

1. The District Collector,
Thiruvallur District.

2. The Tahsildhar,
Thiruvallur Taluk,
Thiruvallur District.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorari calling for the records pertaining to the impugned order bearing Na.Ka.No.4031/2022/ 2 dated 03.01.2023 passed by the second respondent and quash the same.

For the Petitioner : Mr.R.Udhayakumar

For the Respondents : Mr.P.Muthukumar
State Government Pleader



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for respondents 1 and 2

ORDER

(Order of the court was made by the Hon'ble Acting Chief Justice)

The writ petition has been directed against the impugned order dated 3.1.2023 passed under Section 6 of the Tamil Nadu Land Encroachment Act, 1905 [for brevity, "*the Act*"].

2. Mr.P.Muthukumar, learned State Government Pleader taking notice on behalf of the respondents, submitted that one A.Govindaraj filed W.P.No.25389 of 2016 seeking removal of the encroachment from the water channel and government Anadheenam land in Survey No.1/1 to the extent of 66 cents; Survey No.1/2 to the extent of 76 cents; Survey No.2/6 to the extent of 22 cents; and Survey No.3/1 to the extent of 48 cents, totalling 2.12 acres and this court, by order dated 21.7.2016, directed the respondents to remove the encroachments. Since encroachments were not removed, said A.Govindaraj filed Contempt Petition No.2167 of 2018, which was closed on 8.4.2019, recording that the encroachment has been removed. However, A.Govindaraj



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filed Sub.A.No.533 of 2019 to punish the respondent authorities for non-compliance of the order dated 21.7.2016 passed in W.P.No.25389 of 2016. It is further submitted that, in this context, the respondents have issued notice under Section 7 of the Act and since the petitioner failed to show any shred of material to the effect that it is not an encroachment, notice under Section 6 of the Act was issued and instead of challenging the same by way of an appeal under Section 10 of the Act, the present writ petition is not maintainable.

3. We find merit in the submission made by learned State Government Pleader appearing on behalf of the respondents. When a proceeding has been passed under Section 6 of the Act, the petitioner, if aggrieved, can work out his remedy only by filing an appeal under Section 10 of the Act. Secondly, when the entire eviction process was initiated pursuant to the order passed by this court in W.P.No.25389 of 2016, we do not find any reason to interfere with the same.



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For the foregoing reasons, the writ petition is dismissed.

There will be no order as to costs. Consequently, W.M.P.Nos.2058 and 2059 of 2023 are closed.

(T.R., ACJ.) (D.B.C., J.)
27.01.2023

Index : No
Neutral Citation : No
sasi
To:

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Thiruvallur District.
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Thiruvallur District.



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THE HON'BLE ACTING CHIEF JUSTICE
AND
D.BHARATHA CHAKRAVARTHY, J.

(sasi)

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