



W.P.No.2500 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.02.2023

CORAM :

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

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.2500 of 2023

R.Ganapathy@Palanivel

... Petitioner

Versus

1.The Commissioner,
Land Administration Department,
Ezhilagam, Chepauk,
Chennai.

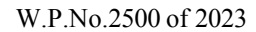
2.The District Collector,
Salem District.

3.The District Revenue Officer,
Salem District.

4.The Revenue Divisional Officer,
Attur Taluk, Salem District.

5.The Tahsildar,
Attur Taluk, Salem District.

... Respondents



For Petitioner	::	Mr.PR.Venkatesh Masethung
For Respondents	::	Mr.P.Muthukumar, State Govt.Pleader

D.BHARATHA CHAKRAVARTHY, J.,

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2. It is the case of the petitioner the land in question is classified as

Tharisu and therefore, he has still developed it and is in cultivation and occupation of the above land by cultivating *Punchai* crops. He was assessed for payment of penal charges and has been duly paying the same. While so, an order under Section 6 of the Tamil Nadu Land Encroachment Act, was passed on 25.08.2021. Against the same, the petitioner preferred an appeal under Section 10 of the Act, and by order dated 31.12.2022, the fourth respondent/The RDO, Salem, dismissed the same. Against the said order a Revision was preferred to the file of the District Collector, namely, the second respondent herein. By order dated 23.02.2022, the second respondent ordered that a revision will not lie before him, but, directed to prefer the revision before the first respondent/ The Commissioner of Land Administration. Therefore, the petitioner has preferred a revision before the first respondent on 27.03.2022 which is pending. Notwithstanding the pendency of the revision, the fifth respondent has proceeded to dispossess the petitioner and fenced the property, even while the crops are standing, and hence the Writ Petition.



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3.Heard *Mr.PR.Venkatesh Masetung*, learned Counsel for the petitioner and *Mr.P.Muthukumar*, State Government Pleader, appearing for the respondents.

4.The learned Counsel for the petitioner would submit that the land in question is only *Tharisu* and when the petitioner has been assessed for occupying lands and the penal charges were levied under Section 3 of the Act and the charges are being paid, there is no question of any eviction of the petitioner. In any event, he would submit that even though the possession has been taken, still the revision pending before the first respondent has to be disposed of in accordance with law. He would submit that in respect of another adjacent extent occupied by a similarly placed individual, this Court by order dated 03.02.2023 in W.P.No.2729 of 2023, had directed the disposal of the revision petition by the first respondent.

5.Per contra, the learned State Government Pleader appearing for the respondents would submit that the possession has been taken and the



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assessment of charges under Section 3 of the Act, is not a bar for eviction under the Act.

6.We have considered the rival submissions on either side and perused the material records of this case.

7.As rightly contended by the learned State Government Pleader for the respondents, mere assessment of penal charges under Section 3 of the Act, is not a bar for initiating eviction proceedings. Therefore, when the petitioner has been duly evicted in the manner known to law, the petitioner has only to agitate the same in accordance with the law and the prayer in the present Writ petition to forbear the respondent from dispossessing him, has already been become infructuous, since the possession has been taken, and the land has been fenced. However, the Revision Petition filed by the petitioner under Section 10A of the Act, is said to be pending and it is also represented that in identical Writ Petition, the revision is directed to be disposed of.



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8.Considering the fact the land is considered to be *Tharisu* and the matter is pending before the first respondent/Commissioner of Land Administration, we dispose of this Writ Petition with a direction to the first respondent to dispose of the Revision Petition filed by the petitioner, dated 27.03.2022 within a period of four weeks from the date of receipt of a copy of this order. There will be no order as to costs.

(T.R.,A.C.J.) (D.B.C, J.)
06.02.2023

Index : yes/no
Speaking / Non-Speaking order
Neutral citation : yes/no

klt

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