



W.P.No.2729 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.02.2023

CORAM :

**THE HONOURABLE MR.JUSTICE R.MAHADEVAN
and
THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ**

**W.P.No.2729 of 2023
and
WMP.Nos.2837 and 2840 of 2023**

K.Rajamanickam

.. 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



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Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents particularly 4th and 5th respondents to remove the fencing and also forbearing them by any coercive action to dispossess 148/1A measuring to an extent of 0.19 acres (19 cents) Valamadevi Village, Attur Taluk, Salem District Village till the disposal of revision petition pending before the 1st respondent under Section 10A of the Tamil Nadu Land Encroachment Act, 1905.

For Petitioner : Mr.PR.Venkatesh Masethung
For Respondents : Mr.A.Selvendran (R1 to R4)
Special Government Pleader

ORDER

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

Heard Mr.PR.Venkatesh Masethung, learned counsel for the petitioner and Mr.A.Selvendran, learned Special Government Pleader who accepts notice on behalf of the Respondents 1 to 4.

2.The relief sought in this Writ Petition is to issue a writ of mandamus directing the Respondents particularly the Respondents 4 and 5 to remove the fencing and also forbearing them from taking any coercive action to dispossess



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the petitioner from the property in S.No.148/1B measuring an extent of 0.19 acres (19 cents), Valamadevi Village, Attur Taluk, Salem District Village, till the disposal of appeal by the 1st respondent under Section 10A of the Tamil Nadu Land Encroachment Act, 1905.

3. According to the petitioner, he is possession and enjoyment of the property in Survey No.148/1B measuring to an extent of 2.52 acres, Valamadevi Village, Attur Taluk, Salem District. While so, he received eviction notice dated 02.09.2021 issued under Section 6 of Tamil Nadu Encroachment Act, 1905 from the 5th Respondent. Challenging the same, he preferred an Appeal before the 4th Respondent under Section 10 of Tamil Nadu Encroachment Act, 1905, who dismissed the same, vide proceedings dated 31.12.2021. Challenging the same, the Petitioner preferred a Revision under Section 10 A of the Act and the same was disposed of by the 2nd Respondent vide proceedings dated 23.02.2022. Thereafter, the Petitioner preferred an Appeal before the 1st Respondent on 29.03.2022, which is pending. In such circumstances, the 4th and 5th Respondents entered into the Petitioner's property and fenced the same on 08.12.2022. Aggrieved over the same, the petitioner is before this court with the present Writ Petition for the aforesaid relief.



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4. Though the petitioner has raised very many averments in the affidavit filed in support of this writ petition, the learned counsel for the petitioner submitted that it would suffice if a direction is issued to the 1st Respondent to dispose of the appeal filed by the Petitioner dated 29.03.2022 on merits and in accordance with law, within a time frame to be stipulated by this court.

5. On the other hand, the learned Special Government Pleader appearing for the Respondent authorities has no serious objection in granting such relief to the petitioner.

6. Considering the limited relief now sought by the learned counsel for the petitioner, which has not been seriously opposed on the side of the respondent authorities, without expressing any opinion on the merits of the case, there shall be a direction to the 1st Respondent to consider the appeal filed by the Petitioner on 29.03.2022, if not considered earlier, and pass appropriate orders, on merits and in accordance with law, after giving an opportunity of hearing to all the parties concerned, within a period of eight weeks from the date of receipt of a copy of this order.



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7. With the above direction, this Writ Petition stands disposed of. No costs.

Consequently, connected miscellaneous petitions are closed.

[R.M.D., J.] [M.S.Q., J.]
03.02.2023

Index : Yes / No
Internet : Yes / No
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To

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Chepauk,
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Salem District.
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R. MAHADEVAN, J.
and
MOHAMMED SHAFFIQ, J.

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