



WP No.10508 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.04.2023

CORAM

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

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

WP No.10508 of 2023

T.Kathirvel

...

Petitioner

versus

1.The District Collector,
Kancheepuram District,
Vandavasi Road,
Kancheepuram-631 001.

2.The Tahsildar,
Uthiramerur,
Kancheepuram.

3.The Revenue Inspector,
Thirupulivanam,
Kancheepuram.

...

Respondents

Prayer: Writ Petition under Article 226 of the Constitution of India praying for a Writ of Mandamus directing the first respondent herein to dispose Appeal dated 01.08.2022 filed under Section 10 of the Tamil Nadu Land Encroachment Act, 1905 challenging the Eviction Notice in Na.Ka.No.1826/2022/A2 dated 03.06.2022 passed by the second respondent and to dispose of the same in accordance with law after giving due opportunity to the petitioner.



WP No.10508 of 2023

For the Petitioner : Mr.A.Abdul Hameed
For the Respondents : Mr.P.Muthukumar,
State Government Pleader

ORDER

(Made by the Hon'ble Acting Chief Justice)

The petitioner has filed this writ petition praying for a writ of mandamus directing the first respondent to dispose of the appeal filed under Section 10 of the Tamil Nadu Land Encroachment Act, 1905, challenging the Eviction Notice in Na.Ka.No.1826/2022/A2 dated 03.06.2022, passed by the second respondent, in accordance with law after giving due opportunity to the petitioner.

2. Learned counsel for the petitioner would submit that the petitioner had suffered an eviction order at the hands of the Tahsildar, the second respondent herein, on 03.06.2022. Normally, an appeal under Section 10 of the Act ought to have been filed within thirty days from the date of passing of the order. But in the present case, there has been a delay of 156 days. According to the petitioner, although the petitioner has suffered an order under Section 6 of the Act, in respect of the properties covered in Schedule A, B and C, appeal was filed only as against the properties covered in Schedule B and C. Only later, the petitioner realised that appeal has not been filed in respect of the properties covered in Schedule 'A'. Hence, the delay of 156 days has occurred, which according to the



WP No.10508 of 2023

petitioner, is neither wilful nor wanton.

WEB COPY

3. Learned counsel for the petitioner submitted that the appeal filed by the petitioner in respect of the properties covered in Schedule 'B' and 'C' was dismissed and the revision filed against the said order is pending before the Government. Section 11(4) of the Act, empowers the District Collector to condone the delay. Therefore, a direction may be given to the first respondent District Collector, to entertain the appeal, filed along with application seeking condonation of delay, as the petitioner has got a fair chance of success.

4. Learned Special Government Pleader, taking notice for the respondents, submitted that a direction may be given to the first respondent to consider the pending appeal, along with application to condone the delay.

5. A perusal of Section 11(4) of the Act of 1905 shows that notwithstanding anything contained in subsections (1) and (2), the officer or authority concerned or the State Government may admit an appeal or application preferred after the period specified therein, if such officer or authority or Government is or are satisfied that the appellant or applicant had sufficient cause for not preferring the appeal or application within that period.



WP No.10508 of 2023

6. Therefore, without entering into the merits of the case, we direct the first respondent to consider the pending appeal, filed along with application to condone the delay, and pass appropriate orders within a period of four weeks from the date of receipt of a copy of this order.

7. The writ petition is disposed of with the above direction. There will be no order as to costs. Consequently, CMP No.10455 of 2023 is closed.

(T.R., ACJ.) (D.B.C., J.)
05.04.2023

Index : Yes/No
Neutral Citation : Yes/No
tar



WP No.10508 of 2023

To

WEB COPY

1.The District Collector,
Kancheepuram District,
Vandavasi Road,
Kancheepuram-631 001.

2.The Tahsildar,
Uthiramerur,
Kancheepuram.

3.The Revenue Inspector,
Thirupulivanam,
Kancheepuram.



WEB COPY



WP No.10508 of 2023

T.RAJA, ACJ,
and
D.BHARATHA CHAKRAVARTHY, J.

(tar)

WP No.10508 of 2023

05.04.2023