



W.P.No.36390 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.12.2023

CORAM :

THE HON'BLE MR.JUSTICE ABDUL QUDDHOSE

AND

THE HON'BLE MR.JUSTICE G.ARUL MURUGAN

W.P.No.36390 of 2023

N.Perumal

.. Petitioner

VS

1.The District Collector,
Villupuram,
Villupuram District.

2.The Block Development Officer
(Village Panchayat)
Melmalaiyanoor Panchayat Union,
Melmalaiyanoor,
Villupuram District.

3.The Thasildar,
Melmalaiyanoor Taluk,
Villupuram District.

.. Respondents

Prayer : Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of mandamus directing the first respondent to dispose of the appeal dated 19.12.2023 filed under Section 10 of the Tamil Nadu Land Encroachment Act, 1905



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pursuant to the notice under Section 6 of the Act 3 of the Tamil Nadu Encroachment Act, 1905 within a time frame and till then the 2nd and 3rd respondents to desist from disturbing possession and enjoyment of the landed property of the petitioner in S.No.160 in Devanoor Village, Melmalaiyanoor Taluk, Villupuram District.

For the Petitioner : Mr.J.Muthukumaran

For the Respondents : Mr.J.Ravindran
Addl. Advocate-General
assisted by
Mr.P.Balathandayutham
Spl. Government Pleader

ORDER

(Order of the court was made by *Abdul Quddhose, J.*)

This writ petition has been filed by the petitioner seeking for issuance of a writ of mandamus directing the first respondent to dispose of the statutory appeal filed by the petitioner under Section 10 of the Tamil Nadu Land Encroachment Act, 1905 (for brevity, "*the Act of 1905*").



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2. The petitioner has preferred the statutory appeal dated 19.12.2023 under Section 10 of the Act of 1905 aggrieved by the order passed under Section 6 of the Act of 1905. The petitioner seeks for early disposal of the said statutory appeal. The petitioner has also sought for a direction from this Court to restrain respondents 2 and 3 from disturbing the petitioner's peaceful possession and enjoyment of the property till the disposal of the said statutory appeal.

3. Mr.J.Ravindran, learned Additional Advocate-General, assisted by Mr.P.Balathandayutham, learned Special Government Pleader, accepts notice on behalf of the respondents.

4. Heard learned counsel for the petitioner and learned Additional Advocate General for the respondents.

5. No prejudice would be caused to the respondents, if a direction is issued to the first respondent to pass final orders on the petitioner's statutory appeal filed under Section 10 of the Act of 1905 dated 19.12.2023 within a time frame to be fixed by this Court.



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However, insofar as the second limb of the prayer in the writ petition to restrain respondents 2 and 3 not to disturb the petitioner's possession and enjoyment of the property is concerned, the petitioner will have to file an appropriate application seeking for stay before the appellate authority in the statutory appeal filed under Section 10 of the Act of 1905.

6. Since the petitioner has not filed the stay application till date, in the interest of justice, we are inclined to protect the interest of the petitioner for a period of two weeks from the date of receipt of a copy of this order.

7. For the foregoing reasons, the writ petition is disposed of by directing the first respondent to pass final orders on merits and in accordance with law on the petitioner's statutory appeal dated 19.12.2023 filed under Section 10 of the Act of 1905 within a period of twelve weeks from the date of receipt of a copy of this order. There shall be an order of interim injunction for a limited period of two weeks from the date of receipt of a copy of this order restraining respondents 2 and 3 from interfering with the petitioner's possession



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and enjoyment of the property comprised in Survey No.160 in Devanoor Village, Melmalaiyanoor Taluk, Villupuram District to enable the petitioner to file appropriate application seeking for stay before the appellate authority, namely the first respondent, in the statutory appeal filed under Section 10 of the Act of 1905. There shall no order as to costs.

8. It is made clear that if no such stay application is filed by the petitioner within the period of two weeks as directed supra, the respondents are at liberty to proceed further in accordance with law pursuant to the final order passed under Section 6 of the Act of 1905 against the petitioner.

(A.Q., J.)

(G.A.M., J.)

28.12.2023

Index : Yes/No
Neutral Citation : Yes/No
bbr/dsa

Note: Issue order copy of 02.01.2024.



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To

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