



WEB COPY



W.P. No.30136 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.10.2023

CORAM:
THE HONOURABLE MR. JUSTICE S. VAIDYANATHAN
and
THE HONOURABLE MR. JUSTICE K.RAJASEKAR

W.P. No.30136 of 2018 & W.M.P. Nos.35167, 35172 and 35174 of 2018

1 K. Gurusamy Gounder

2 Kuttiyappan

3 R. Sellayal

Petitioners

v

1 The Additional Chief Secretary/Commissioner
Land Administration
Chepauk
Chennai 600 005

2 The District Collector
Erode District
Erode

3 The District Revenue Officer
Erode District
Erode

4 The Assistant Executive Engineer/Estate Officer
PWD/WRD, Canal Sub Division
Gobichettipalayam
Erode District

5 The Tahsildar
Nambiyur Taluk
Nambiyur
Erode District



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Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus calling for the records pertaining to the order made under Section 6 of the Tamil Nadu Land Encroachment Act, 1905, as passed by the Assistant Executive Engineer/4th respondent dated 13.11.2017 followed by notice dated 21.08.2018 affixed in the subject premises, quash the same and direct the respondents 2 to 5 to permit the petitioners to continue as lessees as provided under Section 3, *ibid*.

For petitioner Mr. Ayyadurai, Sr. Counsel
for Mr. V. Balamurugane

For respondents Mr. J. Ravindran, Addl. Adv. General
assisted by
Mr. A. Selvendran
Special Government Pleader

ORDER

(made by S. VAIDYANATHAN, J.)

This writ petition impugns the notice dated 13.11.2017 issued by the fourth respondent under Section 6 of the Tamil Nadu Land Encroachment Act, 1905, and the notice dated 21.08.2018 issued by the fourth respondent and for a direction to the respondents 2 to 5 to permit the petitioners to continue as lessees, as provided under Section 3, *ibid*.



2 At the threshold, it is worth observing that as against the notice issued under Section 6, *ibid.*, an appeal remedy is available under Section 10, *ibid.*, before the District Collector. However, without exhausting the said appeal remedy, the petitioner has preferred this writ petition.

3 Considering the fact that a decade has gone by since the issuance of the notice under Section 6, *ibid.*, and the petitioner has not exhausted the appeal remedy available to him under Section 10, *ibid.* as stated above, and also the submission of the learned Special Government Pleader that a even fresh notice dated 10.10.2023 under Section 6, *ibid.*, has since been issued, without expressing any opinion on the merits of the matter, we direct the petitioner to prefer an appeal before the District Collector, Erode, the second respondent herein, within a period of one month from the date of receipt of a copy of this order and on the petitioner so filing an appeal, we expect the second respondent to consider and pass orders on the said appeal in accordance with law, within a period of three months, by conducting an enquiry on a day-to-day basis and without adjourning the enquiry beyond three working days at any given point of time and of course, after affording an opportunity of being heard to all the parties concerned.



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With the above directions, this writ petition stands disposed of, sans costs. Connected W.M.Ps. are closed.

(S.V.N., J.) (K.R.S., J.)
18.10.2023

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To

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S. VAIDYANATHAN, J.

and

K. RAJASEKAR, J.

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