



W.P.(MD) Nos.3352 & 3353 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.02.2023

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD)Nos.3352 & 3353 of 2023
and W.M.P.(MD)Nos.3096 & 3097 of 2023

Ramasamy ... Petitioner in WP(MD)No.3352 of 2023

Subramanian ... Petitioner in WP(MD)No.3353 of 2023

Vs.

1.The District Collector,
Tirunelveli District,
Tirunelveli.

2.The Tahsildar,
Palayamkottai Taluk Office,
Palayamkottai,
Tirunelveli District.

... Respondents in both WPs



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WEB COMMON

COMMON PRAYER : Petitions filed under Article 226 of the Constitution of India, to issue Writ of Certiorarified Mandamus to call for the records pertaining to the impugned eviction notice dated 08.02.2023 issued by the 2nd respondent herein and quash the same as illegal and consequently directing the respondents not to disturb petitioner's possession and enjoyment over petitioner's property in respect of the Ward BJ, Block 12, TS.No.1041 (Old No.1041) at Seraman Perumal Nayanar Street, Palayamkottai taluk, Tirunelveli District till the disposal of suit in O.S.No.292 of 2022 on the file of the Sub Court, Tirunelveli.

In both Writ Petitions:

For Petitioner : Ms.A.Banumathy

For Respondents : Mr.P.T.Thiraviyam
Government Advocate

COMMON ORDER

[Order of the Court was made by D.KRISHNAKUMAR, J.]

The Writ Petitions have been filed challenging the impugned eviction notice dated 08.02.2023 issued by the 2nd respondent herein with a consequential direction to the respondents not to disturb the petitioners' possession and



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enjoyment over petitioners' property in respect of the Ward BJ, Block 12, TS.No. 1041 (Old No.1041) at Seraman Perumal Nayanar Stree, Palayamkottai taluk, Tirunelveli District, till the disposal of suit in O.S.No.292 of 2022 on the file of the Sub Court, Tirunelveli.

2. Heard Ms.A.Banumathy, learned counsel for the petitioners and Mr.P.T.Thiraviyam, learned Government Advocate, who takes notice for the respondents.

3. By consent, these Writ Petitions are taken up for final disposal at the admission stage itself.

4. The learned counsel appearing for the petitioners submitted that earlier the property in question was classified as Natham and thereafter, only in Town survey, the said lands were classified as 'Sarkar Poromboke'. He further submitted that without taking notice of the said fact, the 2nd respondent has passed the impugned eviction order dated 08.02.2023. Therefore, the same is liable to be set aside.



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5. The learned Government Advocate appearing for the respondents submitted that as against the impugned eviction order dated 08.02.2023 issued by the second respondent, the petitioner is having an appeal remedy before District Collector under Section 10 of the Tamil Nadu Land Encroachment Act, 1905 and without resorting such remedy, the petitioner has approached this Court. Hence, this Writ Petition is liable to be dismissed.

6. We are in agreement with the submission made by the learned Government Advocate appearing for the respondents that as against the impugned order dated 08.02.2023, issued by the second respondent, the petitioner is having an appeal remedy under Section 10 of the Tamil Nadu Land Encroachment Act, 1905, before the District Collector. Therefore, we direct the petitioner to file an appeal before the District Collector, viz., the first respondent herein, as against the impugned order dated 08.02.2023, within a period of two [2] weeks from the date of receipt of a copy of this order. On receipt of the same, the District Collector is directed to pass orders on the said appeal on



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merits and in accordance with law, as early as possible. Till such time, *status quo* prevailing as on date shall be maintained by both parties.

7. With the above direction, the Writ Petitions are disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

[D.K.K., J.] [L.V.G., J.]

21.02.2023

NCC : Yes / No
Index : Yes / No
vsm

To

- 1.The District Collector,
Tirunelveli District,
Tirunelveli.
- 2.The Tahsildar,
Palayamkottai Taluk Office,
Palayamkottai,
Tirunelveli District.



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