



W.P.(MD) No.4762 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.03.2023

CORAM:

**THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
and
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

**W.P.(MD) No.4762 of 2023
and
W.M.P.(MD) No.4430 of 2023**

Kaleeswaran

... Petitioner

-vs-

1.The District Collector
Sivagangai District
Sivagangai

2.The Tahsildar
Kalaiyarkovil Taluk
Sivagangai District

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of mandamus forbearing the second respondent from proceeding with his order dated 20.02.2023 under Section 6 of Tamil Nadu Land Encroachment Act, 1905 till the disposal of the statutory appeal preferred by the petitioner before the first respondent under Section 10 of Tamil Nadu Land



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Encroachment Act, 1905 bearing petition number
TN/REV/SVG/1/COLLMGDP/27FEB23/5076980.

For Petitioner : Mr.K.Jeyamohan

For Respondents : Mr.S.P.Maharajan
Special Government Pleader

ORDER

[Order of the Court was made by R.SUBRAMANIAN, J.]

Mr.S.P.Maharajan, learned Special Government Pleader, takes notice for the respondents.

2. Prayer in this writ petition reads as follows:

“For the reasons stated in the accompanying affidavit the Petitioner pray that this Hon'ble Court may be pleased to issue a writ of MANDAMUS, order or direction in the nature of a writ, forbearing the 2nd Respondent from proceeding with his order dated 20.02.2023 under Section 6 of Tamil Nadu Land Encroachment Act, 1905 till the disposal of the statutory appeal preferred by the petitioner before the first respondent under Section 10 of Tamil Nadu Land Encroachment Act, 1905 bearing petition number TN/REV/SVG/1/COLLMGDP/27FEB23/5076980 and to



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pass such further or other orders as this Hon'ble Court may deem fit and proper in the said circumstances of this case and thus render justice.”

3. The grievance of the petitioner is that his appeal to set aside the order of the Tahsildar, passed under Section 6 of the Tamil Nadu Land Encroachment Act, 1905, is pending before the District Collector and his application for stay is also pending. During such pendency, the Tahsildar, namely, the Original Authority is attempting to proceed with the execution of his order. If he is allowed to do so, the interest of the petitioner will be affected.

4. Learned counsel for the petitioner would also draw our attention to the Judgment of this Court in ***A.Natarajan vs. The Commissioner, Land Administration [1996-2-L.W.553]***, wherein, this Court has categorically held that non grant of stay of execution of the orders of eviction pending appeal filed under the provisions of the Tamil Nadu Land Encroachment Act, 1905 would amount to travesty of justice. In view of the said categorical pronouncement of this Court, the District Collector is obliged to consider the application for stay and pass orders on it, without any delay,



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so that the orders of the Tahsildar, which are under appeal, are not executed pending appeal.

5. In view of the above, this writ petition is disposed of with a direction to the District Collector, Sivagangai District, to dispose of the stay application filed by the petitioner before him under Section 10B of the Tamil Nadu Land Encroachment Act, 1905, at the earliest. The Tahsildar, Kalaiyarkovil Taluk, is directed not to proceed with the execution of the orders passed by him till such time the District Collector, Sivagangai District, disposes of the application for stay filed by the petitioner. No costs. Consequently, connected miscellaneous petition is closed.

[R.S.M., J.]

[L.V.G., J.]

06.03.2023

NCC : Yes / No

Index : Yes / No

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To:

- 1.The District Collector,
Sivagangai District,
Sivagangai.
- 2.The Tahsildar,
Kalaiyarkovil Taluk,
Sivagangai District.



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L.VICTORIA GOWRI, J.

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