



W.P.(MD)No.24837 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 13.10.2023

CORAM

THE HONOURABLE **MR.JUSTICE S.M.SUBRAMANIAM**
AND
THE HONOURABLE **MR.JUSTICE V.LAKSHMINARAYANAN**

W.P.(MD)No.24837 of 2023
and
W.M.P. (MD) No.21029 of 2023

Ramasamy

...Petitioner

-Vs.-

- 1.The Secretary to Government,
Revenue and Disaster Management Department,
Secretariat,
Fort St. George,
Chennai – 600 009.
- 2.The Commissioner,
Land Administrator,
Ezhilagam,
Chepauk,
Chennai – 600 005.
- 3.The District Collector,
Sivagangai District,
Sivagangai.
- 4.The Tahsildar,
Karaikudi Taluk,
Sivagangai District.
- 5.The Block Development Officer,
(Village Panchayat),



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Kallal Panchayat Union,
Sivagangai District.

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6.The President,
Devapattu Village Panchayat,
Karaikudi Taluk,
Sivagangai District.

...Respondents

PRAYER:- Writ Petition filed under Article 226 of Constitution of India, praying for issuance of a Writ of Mandamus, forbearing the respondents No.3 and 4 from evicting the petitioner from his land and house in Survey No.36/2 of Devapattu Village Group, Karaikudi Taluk, Sivagangai District to an extent of 0.01.99 Ares pending hearing disposal of the petitioner's revision petition dated 22.09.2023 pending on the file of the 1st respondent.

For Petitioner : Mr.V.Kannan

For Respondents : Mr.S.Shanmugavel
Additional Government Pleader
for R1 to R4

Mr.N.Satheeshkumar
Additional Government Pleader
for R5 & R6

ORDER

(Order of the Court was made by **V.LAKSHMINARAYANAN, J.**)

The Writ on hand has been instituted to forbear the respondents No.3 and 4 from evicting the petitioner from his land and house in



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Survey No.36/2 of Devapattu Village Group, Karaikudi Taluk, Sivagangai District to an extent of 0.01.99 Ares pending disposal of the petitioner's revision petition, dated 22.09.2023, pending on the file of the 1st respondent.

2. Admittedly, eviction notice was issued to the Writ Petitioner in respect of the Natham Government Poramboke Lands in S.No.36/1 and 36/4. The petitioner preferred an appeal to the District Collector who in turn rejected the same. Thus, the petitioner approached the Commissioner of Land Administration, Chennai, who in turn returned the Revision Petition by stating that the revision under Section 10(A)(I)(c) of Tamil Nadu Land Encroachment Act, 1905 is entertainable before the Secretary to Government, Revenue and Disaster Management Department, Secretariat, Chennai – 9. In view of the order passed by the Commissioner of Land Administration, the petitioner preferred a Revision Petition under the Tamil Nadu Land Encroachment Act, 1905, to Secretary to Government, Revenue and Disaster Management Department on 22.09.2023. The said revision is admittedly pending.



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3. The Division Bench of the High Court of Madras in the case of *Natarajan, A. v. The Commissioner Land Administration and others* reported in **1996-2-L.W. 553** held as follows:-

“5. Section 10-B of the Act, specifically deals with stay pending decision in appeal or revision. No doubt, Section 10-B of the Act gives a discretion to the appellate or the revisional authority to stay the order under appeal or revision, but the discretion has to be exercised judicially and not arbitrarily. Refusal to grant stay must be based on relevant and valid grounds. If an order of eviction is given effect to, pending decision in the appeal or the revision, as the case may be, in the event the appellant or the revision petitioner succeeds in the appeal or in the revision, as the case may be, the damage that would be caused to the appellant or the revision petitioner as a result of eviction would be serious in nature. Therefore, pending disposal of the appeal or the revision, it is just and proper for the appellate or Revisional authority to suspend the order of eviction if the facts of the case warrant. If the appellate or the Revisional authority is satisfied that there is no merit in the appeal or revision, it would do well to dispose of the appeal within a short period and till then maintain the as status quo. Justice must not only be done, but it must also seem to be done. It would not be in the interest of justice to keep the appeal or revision pending for a long time, without granting stay in a case where the eviction is ordered.”



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4. Therefore, the first respondent is directed to dispose of the Revision Petition preferred by the writ petitioner within a period of four weeks from the date of receipt of a copy of this order and till such time, the Revision Petition has been disposed of by the first respondent, the respondents are restrained from evicting the petitioner from the subject land. After disposal of the Revision Petition all appropriate actions may be taken.

5. With the above directions, this Writ Petition the Writ Petition stands disposed of. No costs. Consequently, connected Writ Miscellaneous Petitions is closed.

[S.M.S.J.,] & [V.L.N.J.,]
13.10.2023

NCC :Yes/No
Index :Yes/No
SJ

To

1.The Secretary to Government,
Revenue and Disaster Management Department,
Secretariat,
Fort St. George,
Chennai – 600 009.



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SJ

2.The Commissioner,
Land Administrator,
Ezhilagam,
Chepauk,
Chennai – 600 005.

3.The District Collector,
Sivagangai District,
Sivagangai.

4.The Tahsildar,
Karaikudi Taluk,
Sivagangai District.

5.The Block Development Officer,
(Village Panchayat),
Kallal Panchayat Union,
Sivagangai District.

6.The President,
Devapattu Village Panchayat,
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