



W.P.No.8736 of 2024

WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.04.2024

CORAM :

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE J.SATHYA NARAYANA PRASAD

W.P.No.8736 of 2024

Parthasarathy

.. Petitioner

Vs.

1. The District Collector
Office of the Collectorate
Chengalpattu – 603 001.

2. Revenue Divisional Officer
Office of the Revenue Divisional Officer
Tambaram – 695 043.

3. The Tahsildar
Pallavaram
Chennai – 600 075.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India seeking a writ of certiorari, calling for the records in proceeding No. Na.Ka.No.10882/2023/A3 dated 24.01.2024 on the file of the 1st respondent and quash the same as illegal, incompetent and without jurisdiction.

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For the Petitioner : Ms.Abirame
for Ms.V.Srimathi
For the Respondents : Mr.A.Edwin Prabakar
State Government Pleader
assisted by Mr.T.K.Saravanan
Government Advocate

ORDER

(Made by the Hon'ble Chief Justice)

Heard Ms.Abirame, learned counsel appearing for
Ms.V.Srimathi, learned counsel for the petitioner and Mr.A.Edwin
Prabakar, learned State Government Pleader assisted by
Mr.T.K.Saravanan, learned Government Advocate for the respondents.

2. The appeal filed by the petitioner under Section 10 of the
Tamil Nadu Land Encroachment Act, 1905 [hereinafter, "the Act of
1905"] was rejected.

3. Learned State Government Pleader raised a preliminary
objection that the petitioner has the remedy of revision, provided
under Section 10A of the Act of 1905.



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4. Learned counsel for the petitioner submits that the petitioner is raising jurisdictional issues, inasmuch as it is the case of long standing possession and dispute of title, the provisions of Sections 6 and 7 of the Act of 1905 would not apply. The petitioner is in possession of the subject property for more than 150 years. Reliance is placed by the learned counsel for the petitioner on the judgments of the Apex Court in the case of *Government of Andra Pradesh vs Thummala Krishna Rao and Anr.*¹ and in the case of *State of Rajasthan vs. Padmavati Devi and Ors.*².

5. In the present matter, the petitioner was already relegated to the remedy of appeal under Section 10 of the Act of 1905. The order has been passed by the appellate authority. All these issues can be raised before the revisional authority under Section 10A of the Act of 1905. It is not the case that this Court entertained the challenge to the order passed under Section 6 of the Act of 1905. As the petitioner was already relegated to the remedy of appeal under Section 10 of

1 (1982) 2 SCC 134

2 1995 Supp (2) SCC 290



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the Act of 1905 and the same has been decided, the petitioner can avail the further remedy under the provision of the Act of 1905.

6. In the light of that, the present writ petition stands disposed of with liberty to the petitioner to avail the alternate remedy available under Section 10A of the Act of 1905. The said revision shall be filed within a period of fifteen days from today. If the same is filed within fifteen days, then the respondents shall not execute the impugned order till the said revision is decided on merits. The revision shall be decided expeditiously, preferably within a period of four months from the date of filing the revision. There shall be no orders as to costs. Consequently, W.M.P.No.9750 of 2024 is closed.

(S.V.G., CJ.)

(J.S.N.P., J.)

02.04.2024

Index : Yes/No

Neutral Citation : Yes/No

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THE HON'BLE CHIEF JUSTICE
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(drm)

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