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W.P.Nos.21890, 21892 & 21893 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.08.2024

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR

and

THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI

W.P.Nos.21890, 21892 & 21893 of 2024

and

W.M.P.Nos.23879, 23881 & 23882 of 2024

in

W.P.Nos.21890, 21892 & 21893 of 2024

Poongavanam
W/o.Sengoda Gounder

.. Petitioner
in W.P.No.21890/2024

Ammasi
S/o.Perumal

.. Petitioner
in W.P.No.21892/2024

Sarasu
W/o.Pachaimuthu

.. Petitioner
in W.P.No.21893/2024

Vs.

1. The District Collector
Dharmapuri District
Dharmapuri.
2. The Tahsildar
Harur Taluk
Dharmapuri District.
3. The Revenue Inspector



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Revenue Inspector Office
Harur

Dharmapuri District.

.. Respondents in all WPs

Writ petition No.21890 of 2024 filed under Article 226 of the Constitution of India praying to issue a writ of mandamus, directing the first respondent to dispose the stay application filed by the petitioner dated 24.07.2024 along with the appeal filed against the notice issued under section 6 of the Tamil Nadu Land Encroachment Act, 1905 dated 21.07.2024 received by the petitioner on 23.07.2024 and till such time the 2nd respondent not to evict the petitioner from the land situated in S.No.47/5 of Kumarampatti Village, Harur Taluk, Dharmapuri District to the extent of 0070 ares.

Writ petition No.21892 of 2024 filed under Article 226 of the Constitution of India praying to issue a writ of mandamus, directing the first respondent to dispose the stay application filed by the petitioner dated 24.07.2024 along with the appeal filed against the notice issued under section 6 of the Tamil Nadu Land Encroachment Act, 1905 dated 21.07.2024 received by the petitioner on 23.07.2024 and till such time the 2nd respondent not to evict the petitioner from the land situated in S.No.47/5 of Kumarampatti Village, Harur Taluk, Dharmapuri District to the extent of 0.66.0 ares.

Writ petition No.21893 of 2024 filed under Article 226 of the Constitution of India praying to issue a writ of mandamus, directing the first respondent to dispose the stay application filed by the petitioner dated 24.07.2024 along with the appeal filed against the notice issued under section 6 of the Tamil Nadu Land Encroachment Act, 1905 dated



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21.07.2024 received by the petitioner on 23.07.2024 and till such time the 2nd respondent not to evict the petitioner from the land situated in S.No.47/5 of Kumarampatti Village, Harur Taluk, Dharmapuri District to the extent of 0.660 ares.

For Petitioner in all WPs : Mr.S.Doraisamy
for Mr.V.Elangovan

For Respondents in all WPs : Mr.P.Balathandayutham
Special Government Pleader

ORDER

(Order of the Court was made by **M.Sundar, J.**)

This common order will now govern the captioned three 'Writ Petitions' {hereinafter 'WPs' for the sake of brevity} and captioned three 'Writ Miscellaneous Petitions' {hereinafter 'WMPs' for the sake of brevity} thereat.

2. Mr.S.Doraisamy, learned counsel appearing for Mr.V.Elangovan, counsel on record for writ petitioners submits that after show causing under Section 7 of 'the Tamil Nadu Land Encroachment Act, 1905 (Tamil Nadu Act III of 1905)' {hereinafter 'said 1905 Act' for the sake of brevity}, orders have been made under Section 6 of said 1905



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Act and Statutory appeals under Section 10 of said 1905 Act along with stay petitions (stay pending appeals) under Section 10-B of said 1905 Act have been filed and the same are pending with R1 {the District Collector, Dharmapuri District, Dharmapuri}. To be noted, R1 is the Appellate Authority under Section 10 of said 1905 Act.

3. Learned counsel submits that writ petitioners are under pain of being removed though their appeals and stay petitions thereat are pending and that has necessitated the filing of captioned three WPs.

4. Issue notice to respondents.

5. Mr.P.Balathandayutham, learned Special Government Pleader accepts notice for all three respondents in all three captioned WPs.

6. Learned State counsel, on instructions, submits that Statutory appeals under Section 10 of said 1905 Act along with stay petitions thereat under Section 10-B of said 1905 Act are pending with R1 and that they are under active consideration of R1.



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7. Owing to the narrative thus far, the legal perimeter within which the captioned main WPs should now perambulate has dwindled vastly and therefore, with the consent of learned counsel on both sides, main three WPs are taken up and heard out in the Admission Board.

8. In the light of what has been set out supra, we deem it appropriate to dispose of the captioned main WPs by saying that Section 6 orders which have been assailed by way of Statutory appeals will be kept in abeyance till disposal of the three Statutory main appeals under Section 10 or stay petitions thereat under Section 10-B of said 1905 Act by R1 whichever is earlier.

9. We make it clear that we are making this order in the light of this Court having repeatedly held that said 1905 Act is a self contained code which provides for noticee being show caused under Section 7 of said 1905 Act followed by an order under Section 6 of said 1905 Act which is appealable under Section 10 of said 1905 Act with a further provision for revision under Section 10-A of said 1905 Act and there is also a provision for interim orders vide Section 10-B of said 1905 Act



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pending appeal/ revision.

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10. In the same breath, we also make it clear that we have not expressed any view or opinion on the merits of the matter and therefore, the Appellate Authority - R1 will now consider the three appeals and three stay petitions thereat on its own merits and in accordance with law untrammelled by any observations made in instant order that has been made for disposal of the captioned WPs.

11. Captioned three WPs disposed of as closed albeit with limited protection to writ petitioners as set out supra. Consequently, captioned three WMPs are disposed of as closed. There shall be no order as to costs.

(M.S.J.) (K.G.T.J.)
01.08.2024

Index: Yes/No

Neutral Citation: Yes/No

Speaking order / Non-speaking order

mk

P.S. I: Upload forthwith

P.S.II : All concerned to act forthwith on the uploaded soft copy of this proceedings as uploaded in the official website of this Court. To be noted, the soft copies uploaded in the official website of this Court are water marked, besides being QR Coded.



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To
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Dharmapuri.
2. The Tahsildar
Harur Taluk
Dharmapuri District.
3. The Revenue Inspector
Revenue Inspector Office
Harur
Dharmapuri District.

M.SUNDAR.J.,
and
K.GOVINDARAJAN THILAKAVADI, J.,



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