



W.P.No.33957 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.11.2024

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR

and

THE HONOURABLE MR.JUSTICE K.RAJASEKAR

W.P.No.33957 of 2024

and

W.M.P.No.36773 of 2024

in

W.P.No.33957 of 2024

M.Kandasamy
S/o.Marimuthu

... Petitioner

Vs.

1. The District Collector
Krishnagiri
Krishnagiri District.
2. The Revenue Divisional Officer
Uthangarai
Krishnagiri District.
3. The Tahsildar
Uthangarai
Krishnagiri District.
4. The Block Development Officer
Uthangarai
Krishnagiri District.



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5. Sundaram
S/o.Nallia Nadar

... Respondents

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Prayer :

Writ Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Mandamus directing the 1st respondent to dispose of the appeal dated 07.08.2024 against Section 6 notice dated 19.07.2024 in Na.Ka.1904/2024/A3 passed by the 3rd respondent along with the stay application under Section 10(A) of the Land Encroachment Act, 1905.

For Petitioner : Mr.D.Nandhagopal
for Mr.R.Rajarajan
For Respondents : Mr.T.K.Saravanan
Government Advocate
for R1 to R4

ORDER

[Order of the Court was made by **M.SUNDAR, J.,**]

Captioned 'Writ Petition' {hereinafter 'WP' for the sake of brevity} pertains to an order dated 19.07.2024 bearing reference Na.Ka.1904/2024/A3 made by R3 [The Tahsildar, Uthangarai, Krishnagiri District] under Section 6 of 'the Tamil Nadu Land Encroachment Act, 1905 (Tamil Nadu Act III of 1905)' {hereinafter 'said 1905 Act' for the sake of brevity}. This '19.07.2024 order' shall hereinafter be referred to as 'said order' for the sake of brevity.



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2. Writ petitioner has filed a revision against said order under Section 10-A of said 1905 Act but the writ petitioner has not chosen to file a separate stay petition under Section 10-B of said 1905 Act i.e., stay pending revision. This revision has been preferred to R1 - District Collector. The revision according to writ petitioner is at Page No.50 of typed set. However, the prayer talks about an appeal. There is a provision for appeal under Section 10 of said 1905 Act. An order under Section 6 of said 1905 Act is appealable under Section 10 of said 1905 Act and the appeal also lies to R1 but the writ petitioner having chosen to file the revision has come up with the prayer to mandamus R1 qua appeal.

3. Be that as it may, learned counsel for writ petitioner submitted that the writ petitioner is under imminent threat of eviction / dispossession.

4. Issue notice to official respondents.

5. Mr.T.K.Saravanan, learned Government Advocate accepts notice for official respondents.

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6. Learned State Counsel very fairly submits that a revision has been preferred to R1 - District Collector and the same is pending.

7. We find that the penultimate paragraph of revision which has been styled as appeal (revision dated 07.08.2024) seeks interim stay of said order pending what has been described as appeal.

8. Learned State Counsel very fairly submitted that considering the facts and circumstances of the case and nature of the matter, official respondents will consider this penultimate paragraph prayer as preferred under Section 10-B of said 1905 Act pending revision and R1 will dispose of the same within one week. Learned State Counsel also submitted that further proceedings will be subject to such orders.

9. As regards R5 (private respondent) all rights and contentions of private respondent are preserved as captioned main WP was taken up in the Admission Board with the consent of both sides considering the limited scope of captioned WP.



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10. A suit has also been filed by the writ petitioner being O.S.No.35 of 2024 on the file of District Munsif Court, Uthangarai. We express no opinion about the suit.

Recording the stated position of learned State Counsel, captioned WP is disposed of as closed. Consequently, connected Writ Miscellaneous Petition thereat is also disposed of as closed. There shall be no order as to costs.

(M.S.,J.)

(K.R.S.,J.)

25.11.2024

Index : Yes / No

Neutral Citation : Yes / No

Speaking order / Non-speaking order

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M.SUNDAR, J.,

and

K.RAJASEKAR, J.,

mk

To

1. The District Collector
Krishnagiri
Krishnagiri District.
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Krishnagiri District.
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