



W.P.No.28469 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.09.2024

CORAM :

THE HON'BLE MR.D.KRISHNAKUMAR, ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE M.JOTHIRAMAN

W.P.No.28469 of 2024

R.Muthulakshmi

.. Petitioner

Vs

1.The District Collector,
Dharmapuri District,
Dharmapuri.

2.The Revenue Divisional Officer,
Dharmapuri.

3.The Tahsildar,
Dharmapuri Taluk,
Dharmapuri.

.. Respondents

Prayer : Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorarified mandamus to call for the records relating to impugned orders passed by respondents 1 and 3 in Na.Ka.17478/2024/T3 dated 2.9.2024 and Na.Ka.No.2500/2023/A2 dated 18.9.2024 and quash the same as illegal, unwarranted and not established in the eye of the law and consequentially direct the first respondent to pass order on the merit of the case in petitioner appeal dated 3.7.2024.



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For the Petitioner : Mr.E.K.Kumaresan

For the Respondents : Mr.A.Edwin Prabakar
State Government Pleader
assisted by
Mr.T.K.Saravanan
Government Advocate

ORDER

(Order of the Court was made
by the Hon'ble Acting Chief Justice)

Challenging the rejection order dated 2.9.2024 passed by the first respondent and the communication dated 18.9.2024 addressed by the third respondent to the Block Development Officer, Dharmapuri, the petitioner has filed the present writ petition.

2. Learned counsel for the petitioner submitted that the petitioner is the owner of Survey No.632/19 measuring an extent of 106 sq. meter in Unguranahalli Village and is in possession and enjoyment of the same by constructing a dwelling house. Alleging encroachment in Survey No.632/1, notice under Section 7 of the Tamil Nadu Land Encroachment Act, 1905 was issued to the



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petitioner, followed by order under Section 6 of the Act. Challenging the order passed under Section 6 of the Act, the petitioner has filed W.P.No.14458 of 2024 and, by the order dated 29.5.2024, this Court disposed of the writ petition granting time till 12.6.2024 to the petitioner to file an appeal before the District Collector under Section 10 of the Act.

3. According to learned counsel for the petitioner, the copy of the order passed in W.P.No.14458 of 2024 was made ready on 24.6.2024 and delivered on 26.6.2024 and thereafter, the petitioner had preferred an appeal before the first respondent on 4.7.2024. While so, without considering the merits of the case, the first respondent rejected the appeal vide order dated 2.9.2024 on the ground that the High Court had granted time till 12.6.2024.

4. Learned counsel for the petitioner further submitted that the petitioner and her family members are residing in the aforesaid dwelling unit for more than 40 years and have not encroached upon the pathway/theru in Survey No.632/1, as alleged in the impugned



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order. Thus, learned counsel for the petitioner prayed for setting aside the impugned order and sought that the petitioner may be permitted to pursue the appeal filed under Section 10 of the Act before the District Collector, after condoning the delay.

5. The third respondent/Tahsildar has filed a status report. In the status report, in paragraph 5 at one place, it has been stated that Survey No.632/1 measuring an extent of 135 sq. meter is classified as "Theru" or "Street" as per Natham Adangal and, in another place, it has been stated that Survey No.632/1 measuring an extent of 106 sq. meter stands in the name of the petitioner as per Patta No.377 as per Natham Chitta. It has also been stated in the status report that Survey No.632/19 measuring an extent of 106 sq. meter belongs to the petitioner. Thus, it appears that the petitioner is in possession of Survey No.632/1 (part) measuring an extent of 106 sq. meter and was granted Patta No.377.

6. Now the grievance of the petitioner is that as against the order passed under Section 6 of the Act, she has filed the appeal



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before the first respondent and the same was rejected on the ground that the appeal has not been filed within the time granted by the High Court in W.P.No.14458 of 2024.

7. At this juncture, learned State Government Pleader submitted that the District Collector will examine the merits of the matter and take a decision. He would also submit that, if the petitioner encroached upon the street, action in accordance with law would be undertaken.

8. In view of the above and satisfied with the reasons for the delay in filing the appeal under Section 10 of the Act as stated by the petitioner, we are inclined to set aside the impugned rejection order dated 2.9.2024 passed by the first respondent and remit the matter to the first respondent to consider and dispose of the appeal preferred by the petitioner under Section 10 of the Act on merits and in accordance with law, without rejecting the appeal on the ground of delay, within a period of twelve weeks from the date of receipt of a copy of this order. As the order dated 2.9.2024 passed



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by the first respondent is set aside, the impugned communication dated 18.9.2024 of the third respondent cannot be acted upon.

9. With the above observations, the writ petition is allowed.

There shall be no order as to costs. Consequently,
W.M.P.Nos.31037 and 31038 of 2024 are closed.

(D.K.K., ACJ.) (M.J.R., J.)
24.09.2024

Index : Yes/No
NC : Yes/No
bbr

To:

- 1.The District Collector,
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