



WP No.29165 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.02.2024

CORAM

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

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

WP No.29165 of 2023

Brinda

rep. By power of attorney P.Kandasamy : Petitioner

Vs

1.Secretary to Government

Tamil Nadu Revenue & Disaster Management Department,
Secretariat, Chennai 9

2.The District Collector, Tiruvallur District

3.The Tahsildar, Tiruvallur District : Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the order dated 05.09.2023 made in G.O. (Ms) No.469 and issued by the Secretary to Government of Tamil Nadu Revenue and Disaster Management Department Secretariat Chennai-600 009 the first respondent herein and the proceedings of the District Collector, Tiruvallur, made in na.Ka. 15203/ 20215/ N.2 dated 10.09.2022 signed on 12.09.2022 the second respondent herein and the order of the Tahsildar, Tiruvallur Taluk and District and made in Na.Ka.No. 2310/ 2019/ B3 dated 18.07.2019 affixed at the outer compound wall on 23.07.2019 the third respondent herein and quash the same and consequently forbearing the respondents their subordinates or any body acting through them from in any manner interfering with the possession and enjoyment of the petitioner herein with respect to the possession and enjoyment of the petitioner with respect to the property in S.No.1198A-5, No.126, Hussain Nagaram, Mappedu Village, Tiruvallur Taluk, Tiruvallur District.

For Petitioner : Mr.S.Parthasarathy,
Senior Counsel,
for Mr.N.Damodaran

For Respondents : Mr.A.Edwin Prabhakar,
State Government Pleader



WP No.29165 of 2023

ORDER

(Made by the Hon'ble Chief Justice)

We have heard Mr.S.Parthasarathy, learned counsel for the petitioner and Mr.A.Edwin Prabhakar, learned State Government Pleader for the respondents.

2. Amongst other submissions, one of the submissions of learned Senior Counsel for the petitioner is that the Secretary of the first respondent Department, who heard the arguments, was transferred and thereafter, another Secretary assumed charge over the Department, and without affording an opportunity to the petitioner, passed the order.

3. It is not in dispute that the petitioner filed a revision under Section 10A of the Tamil Nadu Land Encroachment Act, 1905 before the first respondent. The petitioner was given an opportunity of hearing. However, before the order could be passed, the Secretary who heard the revision was transferred and another Secretary took charge. The said Secretary straightaway passed the revisional order. As the principles of natural justice are violated, the impugned order cannot be sustained.



WP No.29165 of 2023

4. In light of that, the impugned order passed by the revisional authority is quashed and set aside. The matter is remitted back to the revisional authority for deciding afresh.

5. The petitioner shall appear before the revisional authority on 19.02.2024.

6. The writ petition is accordingly disposed of. Consequently, WMP Nos.28777, 28775/2023 are closed.

(S.V.G., CJ.)

(D.B.C., J.)

02.02.2024

Index : Yes/No
Neutral Citation : Yes/No
tar

To

1.The Secretary to Government
Tamil Nadu Revenue & Disaster Management Department,
Secretariat, Chennai 9

2.The District Collector, Tiruvallur District

3.The Tahsildar, Tiruvallur District



WP No.29165 of 2023

THE HON'BLE CHIEF JUSTICE

AND

D.BHARATHA CHAKRAVARTHY, J.

(tar)

WP No.29165 of 2023

02.02.2024