



W.P.No.32512 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.11.2024

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR
and
THE HONOURABLE MR.JUSTICE K.RAJASEKAR

W.P.No.32512 of 2024
and
W.M.P.No.35333 of 2024
in
W.P.No.32512 of 2024

Maruthamuthu
S/o.Late Veluchamy

... Petitioner

Vs.

1. The District Collector
Tiruppur District
Tiruppur.
2. The Revenue Divisional Officer
Office of the Revenue Divisional Officer
Udumalpet
Tiruppur District.
3. The Tahsildar
Udumalpet Taluk
Tiruppur District.

... Respondents

Prayer :

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Writ Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records of the impugned order passed by the 3rd respondent dated 06.09.2024 and quash the same as illegal and consequently, direct the respondents to grant patta to the petitioner for the lands in Survey No.458 measuring 1 acre in Kallapuram Village, Udumalpet Taluk, Tiruppur District.

For Petitioner : Mr.M.Purushothaman
For Respondents : Mr.T.K.Saravanan
Government Advocate

ORDER

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

Captioned main 'Writ Petition' {hereinafter 'WP' for the sake of brevity} has been filed assailing an order / notice dated 06.09.2024 made by R3 [The Tahsildar, Udumalpet Taluk, Tiruppur District]. This order has been made under Section 6 of 'the Tamil Nadu Land Encroachment Act, 1905 (Tamil Nadu Act III of 1905)' {hereinafter 'said Act' for the sake of brevity}. This '06.09.2024 order' shall hereinafter be referred to as 'impugned order' for the sake of brevity and convenience.



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2. Mr.M.Purushothaman, learned counsel on record for writ petitioner submits that writ petitioner has toiled and tilled the land concerned for over 40 years but he has been visited with impugned order under said Act.

3. Issue notice to respondents.

4. Mr.T.K.Saravanan, learned Government Advocate accepts notice for all three respondents.

5. Mr.T.K.Saravanan, learned Government Advocate submits, on instructions, that writ petitioner is an encroacher within the meaning of said Act and therefore, proceedings have been initiated. Learned Government Advocate also points out that there is a provision for Statutory appeal to R1 against the impugned order and that such Statutory appeal is under Section 10 of said Act.

6. Owing to the limited scope of captioned WP, main WP was taken up in the Admission Board with the consent of both sides.

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7. This Court has repeatedly held that said Act is a self-contained code which provides for alleged encroacher being show caused under Section 7 of said Act followed by an order under Section 6 of said Act after considering the cause shown (to be noted, impugned order in the case on hand is under Section 6 of said Act). There is a provision for Statutory appeal under Section 10 of said Act to the District Collector (against Section 6 order) with a further provision for revision to the Government under Section 10-A of said Act and there is also a provision for interim orders vide Section 10-B of said Act pending appeal/ revision.

8. This is a case where this Court is of the view that self-imposed restrained qua alternative remedy has to be exercised. Therefore, we are relegating the writ petitioner to alternative remedy.

9. Be that as it may, learned counsel for writ petitioner submits that similarly placed persons have been favoured with patta for the very same survey number but writ petitioner has been discriminated against. Learned counsel also points out that writ petitioner has sent a representation in this



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regard. We make it clear that it is open to writ petitioner to raise this point also as a ground in the Statutory appeal and R1 can consider the same on its own merits and in accordance with law.

10. In the light of the narrative thus far, we make it clear that we are not expressing any view or opinion on the alleged encroachment as we are relegating the writ petitioner to Statutory appeal remedy. All rights and contentions of writ petitioner as well as that of the State are left open to be contested in the Statutory appeal. We also make it clear that order in the appeal will be subject to revision, depending on the outcome and that revision will be under Section 10-A of said Act. As already alluded to supra, interim order under Section 10-B of said Act can be resorted to in Section 10-A of said Act also. Therefore, as this alternative remedy mechanism has not been exhausted, captioned WP is not being entertained.

11. The Statutory appeal is subject to limitation (if any) and if the writ petitioner seeks exclusion of time spent in the captioned WP, the same will be considered on its own merits and in accordance with law by R1 who



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is the Appellate Authority.

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12. Ergo, the sequitur is, captioned WP is dismissed albeit with the observation that it is open to writ petitioner to raise the point of patta being given to similarly placed persons in the Statutory appeal to R1, if so advised and if so desired. Consequently, captioned 'Writ Miscellaneous Petition' {hereinafter 'WMP' for the sake of brevity} thereat also perishes with the captioned WP and WMP is also dismissed. There shall be no order as to costs.

(M.S.,J.)

(K.R.S.,J.)

12.11.2024

Index : Yes / No

Neutral Citation : Yes / No

Speaking order / Non-speaking order

mk

P.S.

Learned counsel for writ petitioner requests for return of original impugned order for the purpose of pursuing alternative remedy of appeal. Registry to return the original impugned order forthwith under due acknowledgment to learned counsel for writ petitioner.

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To

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M.SUNDAR, J.,

and

K.RAJASEKAR, J.,

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