



WEB COPY



W.P.No.33365 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.11.2024

Coram

THE HONOURABLE MR.JUSTICE **M.SUNDAR**

and

THE HONOURABLE MR.JUSTICE **K.RAJASEKAR**

W.P.No.33365 of 2024

& W.M.P.No.36146 of 2024

in W.P.No.33365 of 2024

N.Rayappan

S/o.Nanjappan

.. Petitioner

VS

1. The District Collector
Office of the Collectorate
Coimbatore – 641 018
2. The Tahsildar
Taluk Office Annur
Coimbatore – 641 653
3. The President
Kunnathur Village Panchayat (I Grade)
Annur Panchayat Union
Coimbatore District – 641 107



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4. Mrs.T.Dhanamani

W/o.Thangamuthu

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus directing the first respondent to dispose of the appeal dated 25.03.2024 given under Section 10 of the Tamil Nadu Land Encroachment Act, 1905 within the time stipulated by this Court.

For Petitioner : Mr.N.Srinivasan

ORDER

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

Captioned 'Writ Petition' {'WP' for the sake of brevity} has been filed with a simple mandamus prayer qua an appeal dated 25.03.2024 being a statutory appeal under Section 10 of 'The Tamil Nadu Land Encroachment Act, 1905 (Tamil Nadu Act III of 1905)' [hereinafter 'said 1905 Act' for the sake of brevity, convenience and clarity].

2. Learned counsel notwithstanding very many averments in the support affidavit submitted that pending appeal the structure has been removed. We express no opinion on this submission but we only say that



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if that be true, writ petitioner has to blame himself. The reason is, there is a specific provision under Section 10-B of said 1905 Act for interim stay pending decision in the appeal. Section 10-B of said Act reads as follows:

'10-B. Stay pending decision in appeal or revision. -
Pending the disposal of any appeal or application or proceedings for revision under this Act, the Collector, the District Collector, [the appellate authority] [the Commissioner of Land Administration] or the State Government, as the case may be, may, by order, and subject to such conditions as may be specified therein, stay the execution of the decision or order appealed against or sought to be revised.'

3. This Court has repeatedly held that 'the Tamil Nadu Land Encroachment Act, 1905 (Tamil Nadu Act III of 1905)' which is being referred to as 'said 1905 Act' is a self contained Code. The reason *inter-alia* is that there is a provision to have the alleged encroacher show caused under section 7 followed by an order (considering the cause shown). The order under section 6 is appealable under section 10



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[District Collector is the appellate authority] and there is a provision for further revision to the Government under Section 10-A [Section 10-A(3) to be precise] of said 1905 Act. Pending appeal / revision, there is a provision for making interim prayer vide Section 10-B of said 1905 Act. Therefore, said 1905 Act is a self contained Code in every sense of the expression.

4. There is no dispute before us that the writ petitioner has not chosen to file a stay petition under Section 10-B of said 1905 Act. Therefore, we find absolutely no reason to entertain the captioned writ petition. This means that captioned writ petition does not pass muster in the Admission Board.

5. Ergo, the sequitur is captioned WP is dismissed. Captioned WMP is also perishes with the same and the same is dismissed. We refrain ourselves from imposing costs.

[M.S.,J] [K.R.S.,J]



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Index: Yes/No

Neutral Citation: Yes/No

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