



WEB COPY



W.P.No.37983 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.12.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

AND

THE HONOURABLE MR. JUSTICE P. DHANABAL

W.P.No.37983 of 2024

and

W.M.P.No.41072 of 2024

Kandasamy

Vs.

... Petitioner

1.The District Collector,
Tiruppur,
Tiruppur District.

2.The Tahsildar,
Dharapuram Taluk,
Tiruppur District.

3.The Land Revenue Inspector,
Kannivadi Village,
Dharapuram Taluk,
Tiruppur District.

4.The Village Panchayat President,
Erisanampalayam Panchayat,
Erisanampalayam,
Dharapuram Taluk,
Tiruppur District.

.. Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus forbearing the respondents 2 and 3 from taking any coercive action pursuant to the order signed on 08.07.2024 passed by the 2nd respondent under Section 6 of the Tamil Nadu Land Encroachment Act, 1905, till the disposal of the petitioner's Appeal dated 18.07.2024 on the file of the 1st respondent.

For Petitioner : Mr.N.Ponraj
For R1 to R4 : Mr.T.K.Saravanan
Government Advocate

ORDER

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

The above writ petition is filed for issuance of a Writ of Mandamus forbearing the respondents 2 and 3 from taking coercive action against the petitioner in pursuance of the order passed by the 2nd respondent under Section 6 of the Tamil Nadu Land Encroachment Act, 1905 (hereinafter referred to as “Land Encroachment Act” for brevity).



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2. The case of the petitioner is that he is the absolute owner of the property measuring an extent of 1.82 Acres at S.F.No.363 in Thattaravalasu Village, Dharapuram Taluk of Tiruppur District. The petitioner claims title to the property by virtue of a partition deed dated 14.06.2013. It is the case of the petitioner that there is a cart track which runs across the southern side of the petitioner's land. It is stated by the petitioner that the 4th respondent initiated action under the Land Encroachment Act. When the 4th respondent issued notice for removal of encroachment under the Land Encroachment Act, the petitioner submitted his explanation. However, an order of eviction was passed under Section 6 of the Land Encroachment Act. Aggrieved by the same, the petitioner has submitted a representation before the District Collector, the Appellate Authority, under Section 10 of the Land Encroachment Act, and the same is pending. The grievance of the petitioner is that the respondents are trying to take coercive action even before the statutory appeal preferred by the petitioner is disposed of.



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3.Mr.T.K.Saravanan, learned Government Advocate appearing for the respondents, submitted that the petitioner has only submitted a representation and the representation that was filed by the petitioner was not in prescribed format of a statutory Appeal. Hence, having regard to the submission of the learned counsel for the respondents, this Court is inclined to dispose of the writ petition in the following lines :

- i. The 1st respondent/District Collector is directed to treat the representation of the petitioner, dated 18.07.2024, as an Appeal under Section 10 of the Land Encroachment Act, and dispose of the same on merits and in accordance with law, within a period of 16 weeks from the date of receipt of a copy of this order.
- ii. Till such time the 1st respondent disposes of the statutory Appeal in one way or other, the other respondents shall not take coercive action as against the petitioner.



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4. With the above directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

(S.S.S.R., J.) (P.D.B., J.)
13.12.2024

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Internet : Yes

Index : Yes

Neutral Citation : Yes

To

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