



WP(MD). No.11348 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

Date : 22/05/2024

CORAM

THE HON'BLE Ms.JUSTICE R.N.MANJULA

and

THE HON'BLE MR.JUSTICE C.KUMARAPPAN

WP(MD). No.11348 of 2024

and

WMP(MD). No.10090 of 2024

V.Murugan

... Petitioner

Vs

- 1. The District Collector,
Madurai District,
Madurai.**
- 2.The Tahsildar,
Thirupparankundram Taluk,
Thirupparankundram,
Madurai District.**
- 3.The President,
Nilaiyur Bit-I Village,
O/o.The Koothiyarkundu,
Thirupparankundram Taluk,
Madurai District.**

... Respondents



WP(MD). No.11348 of 2024

PRAYER :- Writ Petition is filed under Article 226 of the Constitution of India, for issuance of a Writ of Mandamus, directing the first respondent to pass orders on the petitioner's appeal petition dated 11.05.2024 submitted to him to cancel the Eviction Notice issued by the second respondent vide his proceedings in Na.Ka.No.4604/2023/C dated 09.03.2024 and issue patta in the petitioner's favour for her house with a petty shop situated to an extent of 0.00.40 sq. mt., in S.F.No.301 of Nilaiyur Bit-I Village, Thirupparankundram Taluk, Madurai District within the time limited that may be stipulated by this Court.

For Petitioner : Mr.T.Palanisamy

For Respondents : Mr.D.Gandhiraj,
Special Government Pleader

ORDER

(Order of the Court was made by R.N.MANJULA, J)

Heard Mr.T.Palanisamy, learned counsel for the petitioner and Mr.D.Gandhiraj, learned Special Government Pleader for the respondents.

2. By consent of both parties, this Writ Petition is taken up for final disposal at the stage of admission itself.



WP(MD). No.11348 of 2024

3.This writ petition has been filed for a direction to the first respondent to pass orders on the petitioner's appeal petition dated 11.05.2024 seeking to cancel the Eviction Notice issued by the second respondent vide his proceedings in Na.Ka.No.4604/2023/C dated 09.03.2024 and issue patta in the petitioner's favour for her house with a petty shop situated to an extent of 0.00.40 sq. mt., in S.F.No.301 of Nilaiyur Bit-I Village, Thirupparankundram Taluk, Madurai District within a stipulated period.

4. The learned counsel for the petitioner submitted that earlier, the petitioner has filed a writ petition in W.P(MD)No.6308 of 2024 challenging the eviction notice issued by the second respondent and to direct the respondents not to disturb the petitioner's possession in respect of a petty shop situated in Survey No.301 at Nilayur Bit-I Village, Thiruparangundram, Madurai District. In the said writ petition, on 14.03.2024, the following order has been passed:

“4.The learned Special Government Pleader appearing for the third respondent submits that the property in question belongs to the Government and



WP(MD). No.11348 of 2024

hence, notice under Sections 6 and 7 of the Land Encroachment Act had been issued. He further submits that there is an alternative appeal remedy under Section 10 of the Land Encroachment Act before the first respondent. The petitioner without challenging the same, has preferred this petition.

5. Admittedly, the petitioner is having an effective appeal remedy before the first respondent under Section 10 of the Land Encroachment Act. Without adverting to the same, the petitioner has filed the writ petition. Therefore, without going into the merits of the matter, we direct the petitioner to file an appeal before the first respondent within a period of two weeks from the date of receipt of a copy of this order.”

5. The learned counsel for the petitioner submitted that now, the petitioner has filed an appeal petition before the first respondent. Since no order has been passed in the appeal petition, the petitioner has filed this writ petition with the aforesaid prayer.



WP(MD). No.11348 of 2024

6. The learned Special Government Pleader submitted that the petitioner is in the habit of filing writ petition whenever action has been taken for removal of encroachment. He further submitted that a direction may be issued to dispose of the appeal petition filed by the petitioner within a stipulated period.

7. It is needless to point out that whenever an appeal petition is filed before a Statutory Authority, there is a duty cast upon the authorities to consider the same on its own merits and pass appropriate orders in one way or other, instead of keeping the same pending indefinitely. As such, non-consideration of the appeal by the Statutory Authority would amount to dereliction of duty. The failure on the part of the authority had prompted the petitioner to file this petition for seeking relief through issuance of Writ of Mandamus. As the petitioner has made out a case for invoking the extraordinary powers of this Court under Article 226 of the Constitution of India, the first respondent is required to be given with a direction to consider the appeal of the petitioner within a specified time frame.



WP(MD). No.11348 of 2024

8. In the light of the above observations, there shall be a direction to the first respondent herein to consider the petitioner's appeal dated 11.05.2024, on its own merits and pass appropriate orders in accordance with law, after making due enquiry, within a period of four weeks from the date of receipt of a copy of this order. It is made clear that this Court has not gone into the merits of the case or the claim of the petitioner and it is open to the first respondent to consider the appeal on its own merits.

9. With the above direction, this writ petition is **disposed of**.
No costs. Consequently connected Miscellaneous Petition is closed.

(R.N.M, J.) (C.K.,J.)
22.05.2024

NCC : Yes/No
Index : Yes/No

PM



WP(MD). No.11348 of 2024

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W.P.(MD)No.11348 of 2024

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