



W.P.(MD) No.13820 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD)No.13820 of 2023
and W.M.P.(MD)No.11647 of 2023

R.Kumar

... Petitioner

Vs.

- 1.The District Collector,
Theni District, Theni.
- 2.The Revenue Divisional Officer,
Uthamapalayam,
Theni District.
- 3.The Tahsildar,
Uthamapalayam Taluk,
Uthamapalayam,
Theni District.
- 4.The Block Development Officer,
Cumbum,



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Uthamapalayam Taluk,
Theni District.

5.The President,
Narayanathevanpatti Village,
Uthamapalayam Taluk,
Theni District.

6.G.Murugan

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records in the impugned proceedings issued by the 2nd respondent in Na.Ka.No. 6120/2022/A3 dated 15.05.2023 and quash the same and consequently direct the 1st respondent to dispose the appeal dated 07.11.2022.

For Petitioner : Mr.P.Arun Jayatram

For Respondents : Mr.S.P.Maharajan,
Special Govt. Pleader for R1 to R3
No Appearance for R4 to R6

ORDER

[Order of the Court was made by D.KRISHNAKUMAR, J.]

Challenging the impugned proceedings passed by the second respondent in Na.Ka.No. 6120/2022/A3 dated 15.05.2023, with a consequential direction to



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the first respondent to dispose the appeal dated 07.11.2022, the petitioner has filed this Writ Petition.

2. Heard the learned counsel appearing for the petitioner and the learned Special Government Pleader appearing for the respondents 1 to 3.

3. The only point involved in this Writ Petition is whether the Revenue Divisional Officer is a competent authority to entertain the appeal and pass final orders under Section 10 of the Tamil Nadu Land Encroachment Act, 1905.

4. The learned counsel appearing for the petitioner submitted that the petitioner has filed an appeal petition before the Revenue Divisional Officer as well as the District Collector. The Revenue Divisional Officer has passed an order in the appeal petition filed by the petitioner, which is impugned in the present Writ Petition. He further submitted that the appeal petition filed by the petitioner before the District Collector is pending. According to the petitioner, the Revenue Divisional Officer has no jurisdiction to pass such order. Therefore, the impugned order is liable to be set aside.



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5. The learned Special Government Pleader appearing for the respondents 1 to 3 submitted that the appeal petition filed by the petitioner will be considered by the District Collector at an earliest.

6. Considering the facts and circumstances of the case we are of the view that the District Collector is the competent authority to dispose of the appeal under Section 10 of the Tamil Nadu Land Encroachment Act, 1905 and also considering the submissions made by the learned Special Government appearing for the respondents, we are inclined to pass the following orders:

i) the impugned order dated 15.05.2023 passed by the second respondent is set aside;

ii) the first respondent viz., the District Collector, Theni is directed to dispose of the appeal petition filed by the petitioner dated 07.11.2022, on its own merits and in accordance with law within a period of twelve (12) weeks from the date of receipt of a copy of this order; and



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iii) the petitioner is directed to submit the copy of the appeal petition afresh to the first respondent along with a copy of this order.

7. With the above directions, this Writ Petition is allowed. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

[D.K.K., J.] [R.V., J.]

03.01.2024

Neutral Citation: Yes / No
Index : Yes / No
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D.KRISHNAKUMAR, J.
and
R.VIJAYAKUMAR, J.

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Theni.
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