



W.P.(MD) No.16897 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.07.2024

CORAM:

THE HONOURABLE **MR.JUSTICE R.SURESH KUMAR**

AND

THE HONOURABLE **MR.JUSTICE G.ARUL MURUGAN**

W.P.(MD)No.16897 of 2024

and

W.M.P.(MD)No.14554 of 2024

Veerammal

... Petitioner

-Vs-

1.The District Collector,
Virudhunagar District,
Virudhunagar.

2.The Tahsildar,
Vembakottai Taluk,
Virudhunagar District.

3.The Block Development Officer,
Vembakottai Taluk, Virudhuanagar District.

4.Selvaraj

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, forbearing the 3rd respondent from proceeding with his order in Na.Ka.P3/2555/2023, dated 18.06.2024 till the disposal of the statutory appeal preferred by the petitioner before the 1st respondent vide Na.Ka.G2/G2/L.



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11/22/2024 U/S 10 and 11 of the Tamil Nadu Land Encroachment Act, 1905 dated 12.04.2024.

For Petitioner : Mr.M.Jegadeesh Pandian
For R1 & R2 : Mr.S.Shaji Bino,
Special Government Pleader
For R3 : Mr.A.Kannan,
Additional Government Pleader

ORDER

[Order of the Court was made by *R.SURESH KUMAR, J.*]

The prayer sought for in this Writ Petition is to forbear the 3rd respondent from proceeding with his order in Na.Ka.P3/2555/2023, dated 18.06.2024, till the disposal of the statutory appeal preferred by the petitioner before the 1st respondent vide Na.Ka.G2/G2/L.11/22/2024, under Sections 10 and 11 of the Tamil Nadu Land Encroachment Act, 1905, (hereinafter referred to as 'the Act') dated 12.04.2024.

2.With regard to the alleged encroachment of Government lands, action had been taken against the petitioner by the Revenue Department under the provisions of the Act. Ultimate order to that effect passed by the Tahsildar concerned has been appealed by the petitioner under Section 10 of the Act to the 1st respondent / District Collector on 12.04.2024. The said appeal having been



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entertained, notice for enquiry was given by the 1st respondent on 23.04.2024 to have a hearing on 02.05.2024.

3. Accordingly, on 02.05.2024, enquiry went on, where the petitioner admittedly appeared before the 1st respondent and had given her reply dated 02.05.2024. Thereafter, no orders have been passed by the 1st respondent i.e., appellate authority.

4. When that being the position, without a decision is taken by the 1st respondent being the appellate authority under the Act, no further coercive action shall be taken by the revenue authority, namely, 2nd respondent / Tahsildar for removal of the petitioner from the alleged encroachment. That is the stand of the petitioner and that is the reason why, she has approached this Court with the aforesaid prayer.

5. The learned counsel for the petitioner has made submissions reiterating the aforesaid.

6. The learned Special Government Pleader for the respondents 1 to 3 seeks some time to dispose of the appeal on merits by the 1st respondent. Once the



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1st respondent passes an order on merits, accordingly, the parties can act upon.

Therefore, till the 1st respondent passes an order by taking reasonable time, no coercive steps would be taken either by the 2nd respondent or by the 3rd respondent, he contended.

7.In view of the order, that is going to be passed in this Writ Petition, notice to the 4th respondent is dispensed with.

8.Since the appeal has already been filed in the month of April, 2024, where enquiry itself was completed on 02.05.2024, now, it is open to the 1st respondent to pass orders on the said appeal at the earliest point of time. Therefore, we are hereby inclined to dispose of this Writ Petition with the following direction:-

“(i)there shall be a direction to the 1st respondent / District Collector to dispose of the appeal dated 12.04.2024 filed by the petitioner against the order passed by the revenue authorities under the Act on merits and in accordance with law, of course, after considering the reply given by the petitioner dated 02.05.2024 within a period of four weeks from the date of receipt of a copy of this order;



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(ii) Needless to mention that depending upon the outcome of the order to be passed by the 1st respondent, further course of action can be decided both by the 2nd respondent or the 3rd respondent against the petitioner; and

(iii) Till such time, no coercive steps shall be taken either by the 2nd respondent or by the 3rd respondent to remove the encroachment on the part of the petitioner.

9. With these directions, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

[R.S.K., J.] & [G.A.M., J.]
24.07.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

Yuva

To

1. The District Collector,
Virudhunagar District,
Virudhunagar.

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2.The Tahsildar,
Vembakottai Taluk,
Virudhunagar District.

3.The Block Development Officer,
Vembakottai Taluk, Virudhuanagar District.

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