



W.P.(MD) No.21345 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.09.2024

CORAM:

**THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
and
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

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A.Rahamuthullah

... Petitioner

-VS-

1.The District Collector/Monitoring Committee,
Trichy,
Trichy District.

2.The Tahsildar,
Trichy West Taluk Office,
Trichy District.

3.The Commissioner/Monitoring Committee,
Trichirappalli City Municipal Corporation,
Bharathidasan Salai,
Contonment,
Trichy – 1.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents 1 and 2 to restore the petitioner's possession in Old Survey No.591, New Survey No.130, New Block 20, New Ward Y, Thennar Pensioner Street, Trichy West Taluk, Trichy District, admeasuring 2750 square feet and to refrain from allowing the 3rd respondent to construct a building on the subject matter of the land until the disposal of the Appeal dated 28.02.2022, under Section 10 of Tamil



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Nadu Land Encroachment Act, 1905 and the Civil suit in O.S.No.43 of 2022
on the file of the District Munsif, Trichirappalli.

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For Petitioner	: Ms.S.Mahalakshmi
For Respondents 1 & 2	: Mr.S.P.Maharajan Special Government Pleader
For 3 rd Respondent	: Mr.Kishore Ram For M/s.R.B. Law Associates

ORDER

[Order of the Court was made by R.SUBRAMANIAN, J.]

Mr.S.P.Maharajan, learned Special Government Pleader takes notice for the respondents 1 and 2. Mr.Kishore Ram, for M/s.R.B.Law Associates, learned counsel takes notice of the 3rd respondent. By consent, this Writ Petition is taken up for final disposal at the admission stage itself.

2.The prayer in the Writ Petition reads as follows:-

“To issue a Writ of Mandamus, directing the respondents 1 and 2 to restore the petitioner's possession in Old Survey No.591, New Survey No.130, New Block 20, New Ward Y, Thennar Pensioner Street, Trichy West Taluk, Trichy District, admeasuring 2750 square feet and to refrain from allowing the 3rd respondent to construct a building on the subject matter of the land until the disposal of the Appeal dated 28.02.2022, under Section 10 of Tamil Nadu Land Encroachment Act, 1905 and the Civil suit in O.S.No.43 of 2022 on the file of the District Munsif, Trichirappalli.”



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3.A perusal of the papers shows that the procedure prescribed under the Tamil Nadu Land Encroachment Act, 1905, has been followed and the encroachment made by the petitioner has been removed, after issuing a notice under Section 7 and passing an order under Section 6. The petitioner has also preferred an Appeal against the said order. It is stated to be pending.

4.It is the grievance of the petitioner that despite the pendency of the Appeal, the petitioner has been dispossessed.

5.It is settled legal position that pendency of an Appeal does not operate as stay of further proceedings, pursuant to the order appealed against. Section 10B of the Land Encroachment Act empowers the District Collector to grant stay pending a decision in the Appeal filed under Section 10 or a revision filed under Section 10A. The petitioner has not been successful in obtaining the stay before the District Collector. It is also seen that the petitioner has filed a suit in O.S.No.43 of 2022 on the file of the learned District Munsif, Trichirappalli and the said suit is also stated to be pending.

5.In view of the above, we do not think the Mandamus sought for cannot be granted at this stage. If the petitioner succeeds in the Appeal or in



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the suit that is pending, the petitioner can seek re-delivery.

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6.The Writ Petition is therefore, dismissed. No costs.

[R.S.M., J.]

[L.V.G., J.]

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



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