



W.P.(MD) No.23247 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.09.2024

CORAM:

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

**W.P.(MD) No.23247 of 2024
and
W.M.P.(MD)No.19685 of 2024**

V.Devaraj

... Petitioner

-VS-

1.The District Collector,
Madurai District.

2.The Tahsildar,
Usilampatti Taluk,
Madurai District.

3.The Revenue Inspector,
Uthappanayakanur Firka,
Usilampatti Taluk,
Madurai District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records relating to the impugned order vide Notice – 6, dated 16.08.2024, passed by the second respondent and quash the same.

For Petitioner
For Respondents

: Mr.M.Divakaran
: Mr.S.P.Maharajan
Special Government Pleader



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ORDER

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

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Mr.S.P.Maharajan, learned Special Government Pleader takes notice for the respondents. By consent, this Writ Petition is taken up for final disposal at the admission stage itself.

2.The challenge is to the order under Section 6 of Tamil Nadu Land Encroachment Act, 1905, dated 16.08.2024.

3.The order under Section 6 is made specifically appealable under Section 10 of the Act. Section 10(B) enables the appellate authority, namely, the Collector to grant stay of execution of order of eviction, pending appeal.

4.It is the contention of the learned counsel for the petitioner that the land in Survey No.226/22 belonged to the family and the same was partitioned between him and his brother Nagaraj. After partition, the land has been sub divided to Survey Nos.226/22A and 226/22B. Survey No. 226/22B belongs to the petitioner. If Survey No.226/22B alone is measured, there would not be any encroachment. It appears as if the petitioner had encroached because the authorities have measured both the properties namely, the property allotted to the petitioner and his brother together and have apportioned the encroachment made by the brother to him.



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5. These questions can be conveniently gone into only in an Appeal, which is available under the Statute. Hence, leaving it open to the petitioner to prefer an Appeal before the District Collector under Section 10 of the Land Encroachment Act.

6. The Writ Petition is dismissed. The original impugned order is directed to be returned to the learned counsel for the petitioner within a week from today. The petitioner will have two weeks time therefrom to file an Appeal before the Collector. The Collector will consider grant of stay in the Appeal. The execution of orders of eviction will stand deferred for a period of six weeks from today. No Costs. Consequently, connected miscellaneous petition is closed.

[R.S.M., J.]

[L.V.G., J.]

30.09.2024

NCC : Yes/No

Index : Yes/No

Internet : Yes

Mrn

Note: Issue order copy on **03.10.2024**.



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and
L.VICTORIA GOWRI, J.

Mrn

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