



W.P(MD)No.24063 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.10.2024

CORAM :

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

**W.P(MD)No.24063 of 2024
and
WMP(MD)Nos.20365 and 20366 of 2024**

Z.Sulthan

... Petitioner

vs.

1. The District Collector,
Office of the Collectorate,
Sivagangai District.

2. The Thasildar,
Taluk Office, Ilayangudi,
Sivagangai District.

3. The Block Development Officer,
Block Development Office,
Ilayangudi Taluk,
Sivagangai District.

4. A.Shajakhan

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the Impugned Order passed by the 2nd Respondent vide his Proceedings dated 24.09.2024 and quash the same as illegal and direct the 2nd Respondent to remove the encroachments after getting report as per the proceedings of the 2nd Respondent in Na.Ka.A1/2042/2024 dated 23.08.2024.



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For Petitioner : Mr.D.Senthil
For R1 to R3 : Mr.S.R.A.Ramachandran
Additional Government Pleader

ORDER

(Order of the Court was made by **R.SUBRAMANIAN, J.**)

As against the order passed under Section 6 of the Tamil Nadu Land Encroachment Act, 1905 [hereinafter referred to as "the Act"], the petitioner has preferred an appeal before the District Collector, Sivagangai. The said appeal is stated to be pending.

2. The petitioner has come up with this Writ Petition, since the second respondent / Tahsildar, Ilaiyangudi, is attempting to carry out the orders of eviction even during the pendency of the appeal. Section 10-B of the Act invests the power in the District Collector to grant stay of execution of the orders of eviction pending appeal. We have been repeatedly pointing out that the appellate authority seldom exercises such powers leading to Writ Petitions being filed. If the petitioner is dispossessed pending the appeal, the appeal would become infructuous. Hence, the second respondent Tahsildar, Ilaiyangudi, will defer further proceedings till the disposal of the appeal by the



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District Collector. The District Collector, Sivagangai District, is required to dispose of the appeal filed by the petitioner within a period of 12 weeks from the date of receipt of a copy of this order.

3. The Writ Petition is disposed of with the above direction. No costs. Consequently, connected Miscellaneous Petitions are closed.

(R.S.M, J.) (L.V.G, J.)
14.10.2024

Index : No
Neutral Citation : No
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and
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ORDER MADE IN
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