

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 27.11.2020

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MRS. JUSTICE R.HEMALATHA

WP.No.17439/2020 & WMP.No.21621/2020

K.Sampath

.. Petitioner

Versus

1.The Collector  
Chennai District,  
No.63, Rajaji Salai  
Chennai 600 001.

2.The Executive Engineer  
Public Works Department  
Land Encroachment B.Canal Division  
Chepauk, Chennai 600 005.

.. Respondents

**Prayer:-** Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus directing the 2<sup>nd</sup> respondent herein to forbear them from in any way interfering with the petitioner's possession of the land and building thereon at No.93, Wood Warf 2<sup>nd</sup> Lane in survey No.1282/9 part in Kondithope, Vepery Village, Chennai 600 079, particularly by way of dispossession or eviction, pending final determination of the appeal dated 20.11.2020 under Sec.10 & 10[B] of the Tamil Land Encroachment Act 1905 by the 1<sup>st</sup> respondent.

For Petitioner : Mr.D.Rajasekaran  
For Respondents : Mr.S.Kamalesh Kannan  
Government Advocate

ORDER

[Order of the Court was made by M.SATHYANARAYANAN, J.]

- (1) By consent, the writ petition is taken up for final disposal and is disposed of by this order.
- (2) Mr.M.Kamalesh Kannan, learned Government Advocate accepts notice on behalf of the respondents.
- (3) The petitioner challenges the impugned order issued under Section 6 of the Tamil Nadu Land Encroachment Act, 1905 [hereinafter called as "the Act"], alleging that he has encroached upon 700 sq.ft., of land in S.No.1282/9 [part] in Vepery, in the form of semi-pucca construction.
- (4) The learned counsel for the petitioner, after some arguments would submit that since the petitioner had already availed the alternative remedy by filing an appeal under Section 10 of the said Act along with a petition for stay under Section 10-B before the 1<sup>st</sup> respondent, the petitioner may be permitted to pursue the said remedy and seeks the permission of this Court to withdraw this writ petition. He also undertakes to send the endorsement in the form of E-Mail to the

Registry of this Court to that effect.

(5) This Court also heard the submissions of Mr.S.Kamalesh Kannan, learned Government Advocate appearing for the respondents who, on instructions, would submit that encroachment in respect of the entire area would be removed by following the due process of law.

(6) In the light of the same, the writ petition is dismissed as withdrawn.

The 1<sup>st</sup> respondent, if the papers are otherwise in order, may entertain the appeal along with the petition for stay dated 20.11.2020 and accord priority for disposal of the petition for stay at the first instance and dispose of the same in accordance with law within a period of two weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner. No costs. Consequently, the connected miscellaneous petition is closed.

[MSNJ] [RHJ]

27.11.2020

AP  
Internet: Yes

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M.SATHYANARAYANAN, J.,

AND

R.HEMALATHA, J.,

AP

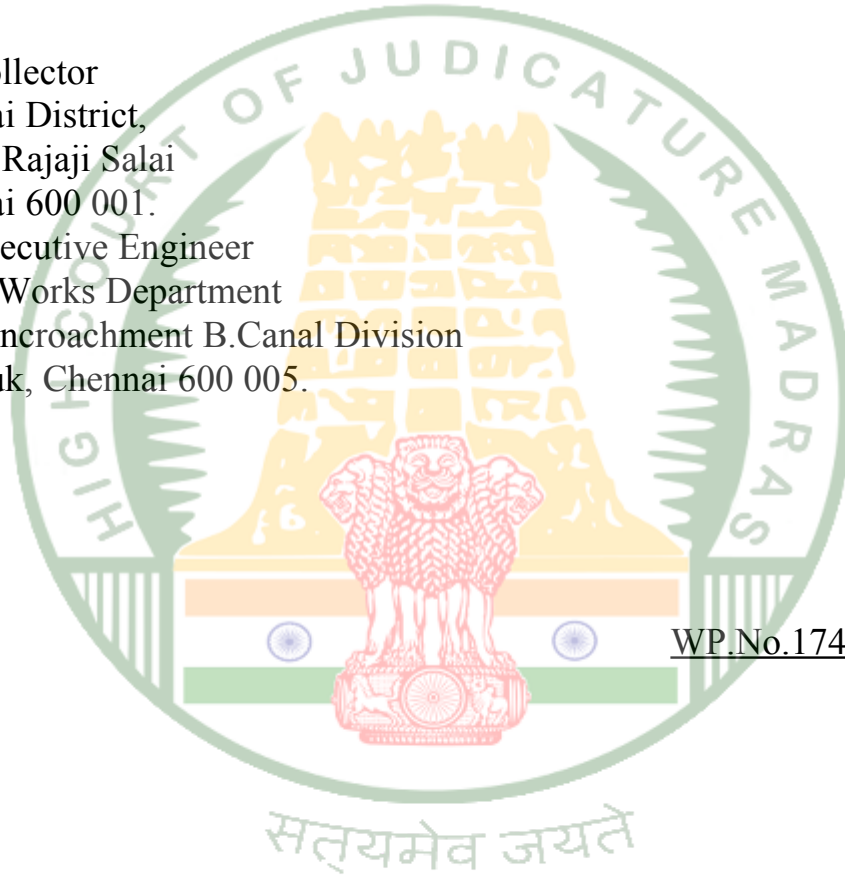
To

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