

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04-06-2015

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

WRIT PETITION No.15963 of 2015

and

M.P.No.1 of 2015

B.Anbuselvan

... Petitioner

vs

The Official Liquidator
Reid Cooperative Society and
Industrial Tamilnadu Khadi
Village Board
(Kancheepuram)
No.45, Vanigarveethi
Kancheepuram 501

... Respondent

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus directing the respondent not to disturb the petitioner's possession over the land comprised in S.No.523/B, Thiruvotriyur, Thiruvallur until he is evicted under the process of law.

For Petitioner : Ms.R.Kamala Rani

For Respondent : Mr.L.P.Shanmugasundaram
Special Government Pleader

ORDER

By consent, the writ petition itself is taken up for final disposal.

2.It is the case of the petitioner that the land comprised in Survey No.523/B, at Shanmugapuram, Thiruvotriyur, Chennai 19, was given to the petitioner's father late M.Balaraman, 40 years back and the said land was in his possession and enjoyment and initially, an extent of 1 acre and 6 cents was leased out in favour of the father of the petitioner and subsequently, on his demise, the mother of the petitioner took over the land and a lease deed was executed on 24.3.2005, in her name fixing the monthly lease rent at Rs.1,200/-. Subsequently, there was an attempt of dispossession by the Official

Liquidator of the respondent Society and therefore, the petitioner filed O.S.No.43 of 2008, on the file of the Court of District Munsif, Thiruvottiyur, praying for permanent injunction restraining the defendant, the respondent herein, from interfering with his peaceful possession except under due process of law and after contest, it was decreed on 12.4.2010.

3. According to the petitioner, the defendant/respondent aggrieved by the said judgment and decree, filed an appeal in A.S.No.57 of 2011 before the lower appellate Court and it was also dismissed on 18.11.2013, and no further challenge has been made to the said judgment and decree passed by the lower appellate Court. The petitioner would further state that out of 1.06 acres of land, which was in his possession, 0.25 acre of land was given back to the respondent, who, in turn, leased out the same in favour of the third party.

4. The grievance now expressed by the petitioner, is that however, the respondent has issued a termination notice on 5.5.2015, without recourse to due process of law, making attempts to dispossess the petitioner and hence, he came forward to file this writ petition.

5. Ms.R.Kamala Rani, learned Counsel appearing for the petitioner, has drawn the attention of this Court to the typed-set of documents and would submit that in spite of the decree passed by the trial Court in O.S.No.43/2008, which was confirmed by the lower appellate Court in A.S.No.57/2011, the respondent is taking all efforts to dispossess the petitioner without recourse to due process of law and would further add that in all fairness, the respondent would have followed up termination notice dated 5.5.2015, and hence, prays for appropriate orders.

6. Per contra, Mr.L.P.Shanmugasundaram, learned Special Government Pleader, who accepted notice for the respondent, would submit that the petitioner is paying a very very meagre rent and the interest and welfare of the Society requires that the petitioner is to be evicted and therefore, steps are taken strictly in accordance with law and prays for dismissal of the writ petition.

7. This Court has carefully considered the rival submissions and also perused the materials placed before it.

8. Admittedly, the petitioner is having the benefit of decree in O.S.No.43/2008, on the file of the Court of District Munsif at Thiruvottiyur and it was put to challenge by the respondent also in A.S.No.57/2011, and the said appeal has also ended in dismissal on 18.11.2013. According to the petitioner, no further appeal has been preferred against the said judgment and decree passed by the lower appellate Court.

9. In the considered opinion of the Court, the petitioner is having an alternative remedy under Order 21 Rule 32 of Code of Civil

Procedure, if any decree for injunction is violated. However, this Court, taking into consideration the apprehension expressed by the petitioner that his dispossession is imminent, is inclined to pass the following order.

10.In the result the writ petition is disposed of and the petitioner as well as the respondent are directed to maintain status-quo as exists today till 6.7.2015, and if the petitioner is so advised and permissible under law, it is open to him to invoke the other effective remedy available to him. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

nsv

To:

The Official Liquidator
Reid Cooperative Society and
Industrial Tamilnadu Khadi
Village Board
(Kancheepuram)
No.45, Vanigarveethi
Kancheepuram 501

+1cc to Mr.R.Kamala Rani, Advocate, S.R.No.7436

W.P.No.15963 of 2015

CNR(CO)
CA(10/06/2015)

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