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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:06.01.2015

Coram

THE HONOURABLE Mr. JUSTICE SATISH K.AGNIHOTRI
AND
THE HONOURABLE Mr. JUSTICE M.VENUGOPAL

W.P.No.58 of 2015

T.Mohanlal Kankariya

... Petitioner

V.

1.The Home Secretary,
Govt. of Tamil Nadu,
Fort St. George, Chepauk,
Chennai - 600 009.

2.The Superintendent of Police,
Anti Land Grabbing Cell,
Vellore District @ Vellore.

3.The Inspector of Police,
Ranipet Town Police,
Ranipet, Vellore District.

4.G.Chandran

5.G.Elumalai

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus directing the respondents 1 to 3 herein to remove/evict and vacate the 4 & 5 respondents from the property i.e., vacant land comprised in S.No.181/5 and S.No.182/4 Ward No.B, Block No.12, T.S.No.6, (Old T.S.No.5) with one well measuring an extent of 35,000 sq. mts situated at No.24, Thandalam Village, Ranipet Town, Wallaja Taluk, and consequently deliver the vacant possession of the above property to the petitioner.

For Petitioner : Mr.M.Mahendra Kumar
For Respondents 1 to 3 : Mr.P.S.Sivashanmugasundaram
Special Government Pleader

ORDER

(Order of the Court was made by M.VENUGOPAL,J.)

With the consent of the Learned Counsel for the Petitioner and the Learned Special Government Pleader for Respondents 1 to 3, the Writ Petition is taken up for final disposal.



2. According to the Petitioner, he is the absolute owner of the vacant land comprised on S.No.181/5 and S.No.182/4 with one well measuring an extent of 35,000 sq.mts. situated at No.24, Thandalam Village, Ranipet Town, Wallaja Taluk, Ward No.B, Block No.12, T.S.No.6, (Old T.S.No.5), situated within the Registration District at Vellore and the Sub-Registration (District of Wallajapet and the same has been purchased by him through Court in E.P.No.39/1990 in O.S.No.137/1987 pending on the file of the Learned Additional Sub-ordinate Judge, Vellore. It appears that the sale deed dated 11.09.1991 was executed by the said Sub-ordinate Court and the same was registered as Document No.3145/1991 in his favour.

3. Originally, the property belonged to one Govindan, residing at No.13, Pillaiyar Koil Street, Navalpur, Ranipet, Vellore District and the Petitioner took vacant possession of the property through Court in E.P.No.80/1992 in O.S.No.137/1987. Thereafter, Govindraj Gounder and his two sons viz., G.Chandran and G.Elumalai (Respondents 4 and 5) had trespassed into his property and consequently, dispossessed him. Hence, the Petitioner filed O.S.No.721 of 1993 on the file of the Learned District Munsif, Ranipet and the trial Court had restrained the said Govindraj Gounder and his two sons from interfering with his peaceful possession and enjoyment of the property by passing Judgment and Decree dated 28.04.1997 in his favour. Later, A.S.No.70 of 2002 was filed by Govindaraj Gounder and his two sons on the file of the Learned Additional District & Sessions Judge, Fast Tract Court - II, Ranipet and the said Appeal was dismissed. Subsequently, they were evicted through Court.

4. That apart, it is the stand of the Petitioner that he permanently settled at Chennai and hence, the said Govindraj and his two sons had entered and trespassed into his aforesaid property by taking advantage of his absence and disobeyed the Court orders. Therefore, he lodged a complaint before the local police station, Ranipet on 25.06.1997. Since no action was taken, he preferred E.A.No.187 of 1997 in O.S.No.721 of 1993 on the file of the Learned District Munsif, Ranipet seeking police help to him for protection of his possession and for implementation of the Decree obtained in O.S.No.721 of 1993 through the Inspector of Police, Ranipet Town Police Station, Ranipet, which was ordered by the Court on 13.10.1997. As such, the Petitioner is in lawful possession and enjoyment of the aforesaid property without any kind of let or hindrance or interruption whatsoever.

5. When that be the fact situation, Respondents 4 and 5 in order to grab the Petitioner's property entered into possession of his property and had put up temporary hut and illegally obtained the electricity and water connections during 2013 without his consent and knowledge despite the prohibitory order in O.S.No.721 of 1993. Also that, the above fact was intimated by the Electricity Department in



its letter dated 02.09.2013 on his RTI Petition dated 06.08.2013 and in this regard, he had submitted his objections through his letter dated 06.08.2013 addressed to the Commissioner, Ranipet Municipality for which, no reply was received.

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6.The main grievance of the Petitioner is that he is the absolute owner of the petition mentioned property and Respondents 4 and 5 have no right, title or interest in the property in question and they lost all the civil cases and in fact, the Civil Court had delivered possession of the property to him through Court Amin.

7.Further, it is represented on behalf of the Petitioner that Respondents 4 and 5 are residing adjacent to the property and therefore, it is easy for them to grab his property. Moreover, they have not vacated from the property inspite of repeated demands, personal visits and followed by reminders etc. On the other hand, they are threatening him with dire consequences and he being the helpless senior citizen. He has been deprived of his valuable property at the hands of land grabbers. That apart, the present market value of the property is at Rs.2 Crores.

8.In effect, the contention of the Petitioner is that the Respondents 4 and 5 have no right to remain or stay in his property in question violating the Court order and they are liable to be evicted through Respondents 2 and 3. Also that, the Respondents 1 to 3 are to be bound to maintain law and order and protect the life of citizens and their right to property from the offenders. Since he has no other alternative efficacious remedy in law and also since he had exhausted all remedies in Civil Court and obtained lawful possession from the Respondents 4 and 5, he has filed the present Writ Petition before this Court.

9.At this stage, this Court very relevantly points out that the Petitioner filed E.A.No.187 of 1997 in O.S.No.721 of 1993 on the file of the Learned District Munsif, Ranipet seeking police help to protect his possession and to implement the Decree obtained in suit O.S.No.721 of 1993 dated 28.04.1997 through the Inspector of Police, Ranipet Town Police Station, Ranipet, which was ordered by the trial Court on 13.10.1997 and that the Petitioner is in lawful possession and enjoyment of the property without any hindrance or interruption whatsoever.

10.Suffice it for this Court to point out that when the Petitioner, in para 4 of the Writ Affidavit, had clearly averred that subsequently the Respondents 4 and 5 were evicted through Court after the disposal of the Appeal A.S.No.70 of 2002 through Judgment dated 19.04.2006 and in para 6, when he had specifically stated that the Respondents 4 and 5 entered into possession of his property and had put up a temporary hut etc., then being a Civil Dispute, the only course open to the Petitioner, in the considered opinion of this Court, is to take recourse/remedy under Civil Law before the



appropriate forum, since the factual issues/aspects and also the ownership/title of the property etc., cannot be gone into or investigated by this Court in a summary Writ Proceedings under Article 226 of the Constitution of India, in the considered opinion of this Court. As such, the Writ Petition filed by the Petitioner is not legally valid and justifiable one, in the eye of law. Consequently, the Writ Petition fails.

11. In the result, the Writ Petition is dismissed, leaving the parties to bear their own costs. It is made clear that the dismissal of the present Writ Petition will not preclude the Petitioner to seek appropriate remedy before the competent forum as against the Respondents 4 and 5 and others concerned, if any, in the manner known to law and in accordance with law, if he so desires/advised.

Sd/-
Assistant Registrar
Dated: 22.1.15

True Copy

Sub Assistant Registrar

To

1. The Home Secretary,
Govt. of Tamil Nadu,
Fort St. George, Chempauk,
Chennai - 600 009.
 2. The Superintendent of Police,
Anti Land Grabbing Cell,
Vellore District @ Vellore.
 3. The Inspector of Police,
Ranipet Town Police,
Ranipet, Vellore District.
- +1 cc to Government Pleader, SR.365.

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