

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.03.2016

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THE HON'BLE MR.JUSTICE T.S.SIVAGNANAM

Writ Petition No. 33902 of 2013
and
M.P.No.1 of 2013

1.S.Ramesh
2.S.Suresh

... Petitioners

Vs.

- 1.The Chief Secretary of Government,
Tamil Nadu Secretariat,
St.George Fort,
Kamarajar Salai,Chennai - 600 009.
- 2.The Chairman & Managing Director,
Tamil Nadu Khadi & Village Industries Board,
Kuralagam, Chennai - 600 108.
- 3.The Deputy Director (Khadi)
Recovery Officer,
Tamil Nadu Khadi & Village Industries Board,
Kuralagam, Chennai - 600 108.
- 4.Reid Cooperative Timber Works Ltd.,
rep. by its Lessee,
Uma Srinivasan.
- 5.The Assistant Director,
Khadir Grama Thozhigal,
No.26, Commercial Street.
Thiruvetriyur, Chennai - 631 501.
- 6.The Inspector of Police,
H-8, Thiruvetriyur Police Station,
Thiruvetriyur, Chennai - 600 019.
- 7.Loganathan Transports,
rep. by its Manager,
Loganathan,
No.408, T.H.Road,
Wimco Nagar, Thiruvetriyur
Chennai - 600 019.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Mandamus, directing the respondents 2 to 4 to remove the lock over the premises bearing Door No.411, comprised in S.No.501, measuring an extent of 2985 sq.ft., situate at T.H.Road, Near Wimco Gate, Wimco Nagar, Thiruvettriur, Chennai - 600 019

For Petitioners : Mr.V.Bharathidasan

For Respondents-1 &6 : Mr.R.Rajeswaran
Special Government Pleader

For Respondents-2, 3 & 5 : Mr.S.K.Bose

For Respondents -4 & 7 : No appearance

O R D E R

Heard the learned counsel appearing for the respective parties.

2. This Writ Petition is filed for issuance of a Writ, in the nature of Mandamus upon respondents 2 to 4 to remove the lock affixed in the property, bearing Door No.411, measuring an extent of 2985 sq.ft., comprised in S.No.501, situate at T.H.Road, Near Wimco Gate, Wimco Nagar, Thiruvettriur, Chennai.

3. The petitioners claim right over the property, pursuant to a settlement deed executed in their favour, by their father, A.Shankar, dated 28.12.2005, registered as Document No.1553 of 2006. In the recitals of the said document, except for vague averments that the father of the settlor i.e. the grandfather of the petitioners, by name Arumugam Devar, was in possession of the property for 20 years, there is not even a single scrap of papers produced before this Court to establish the fact, as to how the petitioner's grandfather came to be in possession of the property in question. Thus, the settlement deed executed in favour of the petitioners by their father, dated 28.12.2005 cannot be relied on as document of title.

4. The fourth respondent has filed a counter affidavit, stating that in terms of the order passed in W.P.No.17890 of 2013, dated 19.11.2013, they have taken possession of the property, measuring 4 acres, on 27.11.2013, and the said property falls within the boundary comprised in S.No.523/A1, and not as alleged by the petitioner. Further, it is stated that the former Liquidator, vide proceedings, dated 22.11.2002,

permitted the seventh respondent to sub let the property, and the former Liquidator has played a fraud. It is stated that, as per provisions of Transfer of Property Act, only a person, who has valid right/title/interest over the property is entitled to transfer the property and the petitioners' grandfather, Arumugam Devar, had no valid right to transfer the property, and therefore, the subsequent settlement deed executed in favour of the petitioners by their father, is void and non est in law. It is further stated that, merely producing the revenue records, the same will not create right/title over the property.

5. The abovesaid stand taken by the fourth respondent is perfectly justified. If the petitioners case is that, they have got nothing to do with the property, which the fourth respondent has taken possession, then, the petitioners cannot have any grievance, but their grievance is that lock and seal has been affixed in the property, and while entertaining the Writ Petition, interim direction was given on 08.05.2014, permitting them to take back all the important documents and articles which are in the property. If the petitioners claim is that their grandfather had valid title over the property, then, they have to establish the same in the manner known to law. This disputed question of fact cannot be adjudicated in the Writ Petition, as the entire Management of Khadi & Village Industries Board have now been vested with the Liquidator. Therefore, if at all the petitioners claim any title over the property, by virtue of the settlement deed executed in their favour, by their father, their remedy lies only before the Civil Court. It is submitted by the learned counsel for the petitioners that already a suit for the relief of injunction has been filed, and the same is pending.

6. In the light of the above, the relief sought for herein cannot be granted. Accordingly, the Writ Petition is dismissed with the above observations. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Chief Secretary of Government,
Tamil Nadu Secretariat,
St.George Fort,
Kamarajar Salai,Chennai - 600 009.
- 2.The Chairman & Managing Director,
Tamil Nadu Khadi & Village Industries Board,
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- 6.The Inspector of Police,
H-8, Thiruvettriur Police Station,
Thiruvettriur, Chennai - 600 019.

+1cc to Mr.V.Bharathidasan, Advocate, S.R.No.17379
+2cc's to Mr.S.K.Bose, Advocate, S.R.No.17237
+1cc to the Government Pleader, S.R.No.17423

सत्यमेव जयते

Writ Petition No. 33902 of 2013

SAI (CO)
CA(29/03/2016)

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