



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.09.2017

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P(MD)No.14578 of 2017andW.M.P(MD)No.11427 of 2017

1.G.Sankaranarayanan

2.Jeyalakshmi

... Petitioners

Vs.

1.The District Collector,
Virudhunagar District.2.The Commissioner,
Virudhunagar Municipality,
Virudhunagar.3.The Executive Officer,
Arulmigu Chokkananthasamy Temple,
Virudhunagar.

... Respondents

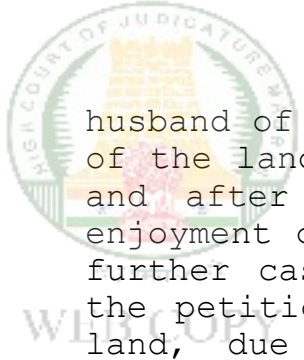
PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, forbearing the respondents 1 and 2 and their men and agent to unlawfully evict the petitioners from their shops situated at T.S.No.784, North Car Street, Virudhunagar, without following the procedures established under the law.

For Petitioners	: Mr.R.Rajamohan
For R1	: Mr.S.Kumar, Additional Government Pleader
For R2	: Mr.M.Muthugeethaiyan
For R3	: Mr.P.Mahendran

O R D E R

The petitioners have come up with this writ petition seeking a Writ of Mandamus, forbearing the respondents 1 and 2, their men and agents in unlawfully evicting them from their shops situated at T.S.No.784, North Car Street, Virudhunagar District, without following the due process of law.

<https://hcservices.ecourts.gov.in/hcservices/> 2. The case of petitioners is that the land comprised in T.S.No.784, North Car Street, Virudhunagar District, belongs to Arulmigu Chokkanathasamy Temple, Virudhunagar. The father and



husband of the petitioners 1 and 2 were initially lessees in respect of the land comprising in T.S.No.784, during the year 1991 and 1993 and after their demise, the petitioners are in possession and enjoyment of the land by putting up permanent structures. It is the further case of the petitioners that even during the life time of the petitioners' father and husband, there was a dispute over the land, due to which, O.S.No.147 of 1994 was filed, before the District Munsif Court, Virudhunagar District, seeking injunction which was allowed on 21.09.1995, as against which the second respondent preferred an appeal in A.S.No.119 of 1996, before the Sub Court, Virudhunagar. The said appeal was allowed by reversing the judgment and decree of the Trial Court. Challenging the same, S.A.No.765 of 1997, was filed by the father of the first petitioner, which was dismissed on 05.02.2008, holding that both the parties have not established as to who is the owner of the subject property. It is the further case of the petitioners that they are in possession and enjoyment of the land belonging to the third respondent. However, the second respondent claims that the land belongs to the Municipality and attempts to dispossess the petitioners from the shops without following the due process of law. The first petitioner submitted a detailed representation in this regard on 28.07.2017, seeking not to evict them from their shops in question and the same has not been considered by the second respondent. Under the above facts and circumstances of this case, the petitioners are before this Court sought for in this writ petition.

3. Heard the learned counsel appearing for both parties and perused the records available.

4. Admittedly, S.A.No.765 of 1997, was filed by the father of the first petitioner which was dismissed on 05.02.2008, on the ground that necessary documents have not been produced by the parties to establish their rights with regard to the ownership of the property in question.

5. Considering the facts and circumstances of the case, taking into account the rival submission and to give quietus to the entire issue, this petition is disposed of with the following directions:

i) The first petitioner is directed to deposit a sum of Rs.1,00,000/- (Rupees One Lakh only) and the second petitioner is directed to deposit a sum of Rs.1,50,000/- (Rupees One Lakh and Fifty Thousand only) in the name of the respective petitioners in anyone of the Nationalised Banks on an Interest Bearing Account initially for a period of one year, within a period of six weeks from the date of receipt of a copy of this order and produce the receipts thereof to the 1st respondent / District Collector and the amount shall be kept in the said account till the entire issue attains finality.

<https://hcservices.ecourts.gov.in/hcservices/>

ii) The District collector, upon satisfaction of the proof of



payment, shall call for the records relating to the property in question after due notice to both the Municipal and Temple authorities and verify the same and issue appropriate direction.

iii) In case the District Collector feels that still there is a cloud over the property in question, it is open to the District Collector to direct the parties to approach the Civil Court for appropriate relief. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(A.E)

/True Copy/

Sub Assistant Registrar

To:

- 1.The District Collector,
Virudhunagar District.
- 2.The Commissioner,
Virudhunagar Municipality,
Virudhunagar.
- 3.The Executive Officer,
Arulmigu Chokkananthasamy Temple,
Virudhunagar.

+1cc to Mr.M.Muthugeethaiyan Advocate in SR. No. 80457
+1cc to Mr.P.MAHENDRAN Advocate in SR. No. 80770
+1cc to Mr.R.RAJAMOHAN Advocate in SR. No. 80174
+1cc to THE SPECIAL GOVERNMENT PLEADER in SR. No. 80906

RM

JS/SKN.RSK/SAR.2/11.10.2017/3P-8C

W.P (MD) No.14578 of 2017
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