

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.07.2018

C O R A M

THE HONOURABLE MR.JUSTICE P.D.AUDIKESAVALU

W.P.No.22776 of 2003
and
W.P.M.P.No.28168 of 2003

R.Mohan

... Petitioner

Vs.

1.The Government of Tamil Nadu
Rep by its Secretary to Government
Harijan Welfare Department
Fort St. George, Chennai - 600 009.

2.Deputy Collector
Harijan Welfare Department
Kothagiri.

3.Executive Officer
Gudalur Town Panchayat
The Nilgiris.

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India, to issue a writ of Mandamus, directing the respondents herein in not to construct small houses in S.No.682/1 Gudalur Village, Gudalur Taluk, Nilgiris District and to remove the building materials placed in the land which is in petitioner's possession.

For Petitioner : Mr.M.Mohamed Hajain
For M/s.B.Ramamoorthy

For Respondents: Mr.K.S.Suresh [For R1&R2]
Government Advocate
Mr.G.Sankaran [For R3]

O R D E R

The case of the petitioner is that his ancestors have been in possession of the land in Survey No.682/1 in Gudalur Town Panchayat in the Nilgiris District and that the respondents were disturbing his possession of the said land by constructing houses for Adivasis. In the counter affidavit filed by the Third Respondent, it is contended that the said land is government

waste land which has been selected for the construction of pucca houses for tribals in the place where their huts are in existence.

2.Since the matter involves to disputed question of facts relating to title and possession of the property, it would not be appropriate for this court to adjudicate upon the same in summary proceedings under Article 226 of the Constitution of India, 1950. In that backdrop, the learned counsel for the petitioner has sought permission of this court to withdraw this writ petition with liberty to agitate the rights of the petitioner in a civil suit and he made an endorsement to that effect.

3.Recording the same, this writ petition is dismissed as withdrawn with such liberty. It is made it clear that the period of pendency of this writ petition before this court shall be excluded for the purpose of computing limitation for institution of the proposed suit. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-

Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

may
To

1.The Secretary to Government
Harijan Welfare Department
Fort St. George, Chennai - 600 009.

2.Deputy Collector
Harijan Welfare Department
Kothagiri.

3.Executive Officer
Gudalur Town Panchayat
The Nilgiris.

+ 1 cc to Mr.B. Ramamoorthy, Advocate Sr.42653
+ 1 cc to Mr. R. Chandrasekaran, Advocate Sr.42666
+ 1 cc to Mr.the Government Pleader Sr.43384

W.P.No.22776 of 2003

GJII (CO)
EU(20/07/2018)