



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.07.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAI SWAMY

AND

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P (MD) No.16000 of 2018

and

W.M.P (MD) No.14264 of 2018

N.Rahamathullah

... Petitioner

Vs.

1. The District Collector,
Dindigul District,
Dindigul.

2. The Revenue Divisional Officer,
Dindigul Division,
Dindigul District.

3. The Authorised Officer,
City Union Bank Limited,
Administrative Office, No.24B, Gandhi Nagar,
Kumbakonam,
Thanjavur District.

4. Mohamed Abbas

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, forbearing the respondents 1 to 3 from taking forcible possession of the petitioner's property situated at Door No.16B, Azad Nagar, Natham Taluk, Dindigul District except due process of law vide representation, dated 10.07.2018.

For Petitioner : Mr.C.Mayil Vahan Rajendran

For RR 1 & 2 : Mr.A.K.Baskarapandian,
Special Government Pleader.

For R - 3 : Mr.M.Prakash

ORDER

(Order of the Court was made by **M.DURAI SWAMY, J.**)

The petitioner has filed the above writ petition to issue a Writ of Mandamus, forbearing the respondents 1 to 3 from taking forcible possession of the petitioner's property situated at Door No.16B, Azad Nagar, Natham Taluk, Dindigul District except due process of law vide representation, dated 10.07.2018.



2. Even according to the petitioner, the fourth respondent/landlord had mortgaged the property by executing a deed of usufructuary mortgage in favour of the petitioner. Therefore, the petitioner cannot be considered as a tenant in respect of the property, which was mortgaged with the third respondent-Bank. Apprehending that the third respondent may initiate action to dispossess the petitioner from the mortgaged property, which was mortgaged by the fourth respondent, the petitioner has filed not only this Writ Petition and also filed a civil suit in O.S.No.31 of 2018 on the file of the District Munsif Court, Natham for the very same relief sought for in the Writ Petition.

3. The petitioner cannot prosecute both the civil suit as well as the writ petition simultaneously. When the petitioner has filed a civil suit before the District Munsif Court, Natham, he should not have filed the present Writ Petition.

4. In these circumstances, the Writ Petition is devoid of merits and the same is liable to be dismissed. Accordingly, the Writ Petition is dismissed. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar(CS-II)

To

1. The District Collector,
Dindigul District,
Dindigul.
2. The Revenue Divisional Officer,
Dindigul Division,
Dindigul District.

+1cc to Mr.C.Mayil Vahan Rajendran, Advocate Sr.No.74501
+1cc to Mr.M.Prakash, Advocate Sr.No.74425
+1cc to Spl.Government Pleader Sr.No.74689

PS

VB/KAK/SAR2/02.08.2018/2P/6C

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23.07.2018