



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.11.2018

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD)No.19292 of 2018

and

W.M.P. (MD)No.17130 of 2018

A.Kannan

... Petitioner

Vs.

1. The Special Deputy Collector,
(Revenue Court),
Tirunelveli.

2. The Tahsildar,
Tirunelveli Taluk,
Tirunelveli District.

3. Murugan

4.Thangammal

... 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 evicting he petitioner from the cultivating lands comprised in Survey No.465 with an extent of 3 cents and Survey No.466 with an extent of 1 acre 14 cents in Pettai Village, Tirunelveli Taluk, Tirunelveli District without following due process of law and provisions of the Tamil Nadu Cultivating Tenants Protection Act, 1955 and consequently direct the 1st respondent to dispose of the petitioner's reopen petition dated 03.09.2018 within a stipulated time frame.

For Petitioner : Mr.R.Pon Karthikeyan

For Respondents : Mr.M.Rajarajan,
Government Advocate for R.1 & R.2
Mr.S.P.Maharajan for R.3
No appearance for R.4

ORDER

The petitioner claims to be a cultivating tenant under the third respondent by virtue of a lease deed dated 10.10.2000, said to have been executed by the father of the third respondent. The case of the petitioner is that the third respondent had set up one Thangammal as a respondent in the eviction proceedings filed by him before the Revenue Court, Tirunelveli and obtained an order of eviction. This eviction order is said to be enforced to the prejudice of the petitioner herein. Therefore, he has filed the present writ petition for forbearing the respondents 1 & 2 from evicting him except by due process of law.



2. Heard the learned Counsel appearing on either side.

3. I am of the view that the present writ petition is clearly not maintainable. A Writ of Mandamus cannot lie against a Revenue Court. The apprehension of the petitioner is that he may be unlawfully dispossessed. If that be so, Section 4(5) of Tamil Nadu Cultivating Tenants Protection Act, 1955, enables him to apply to the Revenue Court for restoration of his possession. It is also open to the petitioner herein to file an injunction suit for protection of his rights, if any. The contest is a private one and is between the petitioner on the one hand and the third respondent on the other. To resolve such a contest, filing of a writ petition is clearly not the remedy. I, therefore, hold that the writ petition itself is not maintainable and the same is accordingly, dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(crl side)

/True Copy/

Sub Assistant Registrar(CS-I)

To

1. The Special Deputy Collector,
(Revenue Court),
Tirunelveli.

2. The Tahsildar,
Tirunelveli Taluk,
Tirunelveli District.

+1cc to Mr.S.P.Maharajan, Advocate Sr.No.94645
+1cc to Mr.R.Pon Karthikeyan, Advocate Sr.No.94652
+1cc to Spl.Government Pleader Sr.No.94689

GK

VB/SV/SAR1/12.12.2018/2P/6C

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