

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 04.07.2019	Pronounced on : 28.08.2019
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CORAM:

THE HONOURABLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 19036 of 2019
and W.M.P. No. 18394 of 2019

C. Duraipandian ... Petitioner

Vs.

1. The District Collector,
Chennai District,
Chennai - 600 001.

2. P.R. Sundaram ... Respondents

PRAYER:- Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Mandamus, directing the First Respondent to consider the Petitioner's representation dated 10.06.2019.

For Petitioner : Mr. C. Duraipandian
(Party-in-Person)

For Respondents : Mr. R. Venkatesh,
Government Advocate (for R1)

ORDER

The father of the Petitioner, viz., D. Chellasamy, who is in occupation of the premises at No. 7, Kalvivaru Street, Mylapore, Chennai - 600 004 as tenant under the Second Respondent, has suffered order of eviction dated 29.01.2004 passed in R.C.A. No. 146 of 1999 passed by the VII Judge, Small Causes Court, Chennai.

2. While the matter stands as narrated supra, the Petitioner has come up with this Writ Petition claiming that one Benjamin has sent a representation dated 10.06.2019 to the First Respondent complaining that the Second Respondent has manipulated documents to claim ownership of the aforesaid property and has sought for a direction from this Court in this Writ Petition to dispose the said representation.

3. Before proceeding further, it would be useful to refer to Section 116 of the Indian Evidence Act, 1872, which reads as follows:-

"116. Estoppel of tenant; and of licensee of person in possession:- No tenant of immovable property, or person claiming through such tenant, shall, during the continuance of the tenancy, be permitted to deny that the landlord of such tenant had, at the beginning of the tenancy, a title to such immovable property; and

no person who came upon any immovable property by the licence of the person in possession thereof shall be permitted to deny that such person had a title to such possession at the time when such licence was given."

It is evident on a plain reading of the aforesaid statutory provision that it unequivocally mandates that a tenant cannot deny the title of his landlord. As already pointed out, the father of the Petitioner with whom the Petitioner claims to reside in the aforesaid address, has suffered an order of eviction. This would obviously mean that the Petitioner cannot deny the title of the Second Respondent in respect of the property occupied by his father. Commenting upon the exercise of discretionary powers of the High Courts under Article 226 of the Constitution, the Hon'ble Supreme Court of India in Director of Settlements, A.P. -vs- M.R. Apparao [(2002) 4 SCC 638], has observed as follows:-

"17.One of the conditions for exercising power under Article 226 for issuance of a mandamus is that the Court must come to the conclusion that the aggrieved person has a legal right, which entitles him to any of the rights and that such right has been infringed. In other words, existence of a legal right of a citizen and performance of any corresponding legal duty by the State or any public authority, could be enforced by issuance of a writ of mandamus...."

Inasmuch as the Petitioner has not established the legal right for granting the relief claimed, there is no justification to entertain this Writ Petition.

4. That apart, even the representation sought to be disposed is not one which has been made by the Petitioner, but by a third party and it is not explained as to how the Petitioner could seek relief from this Court in that regard.

5. As there are no merits in the Writ Petition for the aforesaid reasons, the same is dismissed. Consequently, the connected Miscellaneous Petition is closed. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

The District Collector, Chennai District, Chennai - 600 001.

AKM/05.09.19/2P-2C /