



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.08.2019

CORAM:

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P. (MD)No.19392 of 2016

and

W.M.P. (MD)Nos.13977 of 2016 and 6031 of 2017

Savithri

... Petitioner

/Vs./

1.The District Collector,
Trichy District, Trichy.

2.The Commissioner,
Tiruchirapalli City Municipal Corporation, Trichy.

3.The Assistant Commissioner,
Tiruchirapalli City Municipal Corporation,
Srirangam Zone, Trichy. ... Respondents

PRAYER:- Writ Petition - filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the respondents to restore the possession of the petitioner in survey No.117/6, measuring about 800 sq.feet, Thiruvalarsolai, Srirangam Taluk, Trichy District.

For Petitioner	: Mr.C.Deepak
For R-1	: Mr.S.Angappan
	Government Advocate
For R-2 & R-3	: Mr.N.S.Karthikeyan

ORDER

The petitioner has filed this writ petition seeking a Mandamus to the respondents to restore possession of the property in S.No.117/6, measuring about 800 sq.feet (approx.), Thiruvalarsolai, Srirangam Taluk, Trichy District, [in short 'property in question'].

2. The petitioner had approached this Court earlier in W.P. (MD)No.15336 of 2016 seeking an almost identical prayer, that of a Mandamus forbearing the respondents, the District Collector, the Commissioner and Assistant Commissioner of the Trichy City Municipal Corporation being the same respondents as arrayed before me now from evicting her from the property in question. Vide order dated



19.08.2016, the Division Bench of this Court dismissed the writ petition observing that the petitioner can be evicted following due process of law. At paragraph No.4, the Bench states as follows:

4.From the narration of these essential facts, we gather that the writ petitioner and her family members were possibly in occupation of land either belonging to the Government or the local Municipal Corporation and that they are not the true owners of the land in question. Though there is no material before us to arrive at a conclusion that the writ petitioner and her family members are in occupation of the said land for the past four decades as asserted by the petitioner herein but however, we assume that the respondents being public authorities would not take law into their hands but would strictly following legal regime before seeking eviction of an encroacher of Government or Corporation lands. Therefore, we have no hesitation to dismiss this writ petition observing that the respondents would strictly follow the legal regime and evict the petitioner but not otherwise. No costs.'

3. The respondents have filed a counter along with compilation of documents. In counter, the third respondent points out that the petitioner had herself along with her son, voluntarily vacated the premises in question handing over the possession to the authorities, pursuant to which, the building in the premises in question was demolished on 27.08.2016. According to the respondents, the petitioner had herself left the property even prior to receipt of order dated 19.08.2016, since the same had been dictated in open Court. Upon receipt of the order, the petitioner has now made allegations stating that due process was not followed by the respondents.

4. According to the petitioner, she has been forced to leave the property. A contempt petition in Cont.P.(MD)No.1203 of 2016 was filed that came to be dismissed on 06.10.2016 in the following terms:

'In the light of the reasons assigned in Paragraph No.4 of the order, dated 19.08.2016, passed in W.P.(MD)No.15336 of 2016, which is the subject matter of this contempt petition, this Court is of the view that contempt proceedings would not lie.

2.The learned counsel for the petitioner would submit that the petitioner, for the purpose of getting back the possession and claiming damages, has filed a writ petition in W.P.(MD)



No.19392 of 2016 and it is listed for admission before the Single Bench of this Court today.

3. In the light of the same, this contempt petition is closed. No costs.'

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5. The Division Bench of this Court has recorded the submission of the contempt petitioner to the effect that W.P.(MD) No.19392 of 2016 had been filed for obtaining possession and claiming damages. This is factually incorrect as the writ petition is filed only seeking restoration of possession. The petitioner has also issued legal notices to the respondents on 12.09.2016, 14.09.2016 calling upon the respondents to pay damages for the demolition of the house and compensation and also alleging contravention of the order of this Court dated 19.08.2016.

6. The averments in the counter have not been controverted by the petitioner by way of a reply or rejoinder. Moreover, the Village Administrative Officer has vide communication dated 27.08.2016 has recorded the position that the petitioner had exited the property in question voluntarily. The communication of a section of the Village public of even date also supports this.

7. I thus have no doubt that the petitioner has exited the property in question voluntarily and without any demur. This Writ Petition, in my view is only yet another attempt on the part of the petitioner to obtain possession of a property over which she could have no claim. The observations of the Division Bench to this effect at Paragraph No.4 extracted above support my conclusion in full. I may also add that the order of the Division Bench dated 19.08.2016 has attained finality and the factual findings therein are thus undisturbed. This Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar

To
The District Collector,
Trichy District, Trichy.

+1 CC to M/s.N.S.KARTHIKEYAN, Advocate (SR-82618[F] dated 21/08/2019

Order made in

W.P.(MD)No.19392 of 2016

Dated:20.08.2019

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