

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.05.2020

CORAM

THE HON'BLE DR.JUSTICE VINEET KOTHARI
AND
THE HON'BLE MRS.JUSTICE PUSHPA SATHYANARAYANA

W.A.No.449 of 2020
and C.M.P.Nos.7001 and 7002 of 2020

G.Meera Rani .. Petitioner

Vs.

1. The District Collector,
Collectorate Office,
Nagapattinam District.
2. The Tahsildar,
Seerkazhi Taluk Office,
Nagapattinam District.
3. The Inspector of Police,
Thiruvengkadu Police Station,
Nagapattinam District.
4. T.Rajedran ... Respondents

Prayer in W.A.No.449 of 2020 : Appeal under Section 15 of the Letter Patent Act praying to set aside the order in W.P.No.Un Numbered/2020, dated 30.03.2020.

Prayer in WP.----/2020 to issue a writ of mandamus, directing the respondents 1 to 3 to provide necessary protection to pick the Black Grams which is standing on the petitioner's land in survey NO.100/1, 2,3,4 and 5 and also survey No.101/3, which is spread over 2 acres situated at 80-Rathanallur, Alangadu Village, Seerkazhi Taluk, Nagapattinam District, and pass order.

For Appellant : Mr.P.Vijendran

For Respondents: Mr.V.Jayaprakash Narayanan,
Government Pleader for RR 1 to 3

J U D G M E N T

(Order of the Court was made by Pushpa Sathyanarayana, J.)

The Court was held by Video Conference, in terms of the Resolution of the Full Court dated 30.04.2020, by Judges from their respective residence offices, where minimum staff made available and the counsel, staff of the Court appearing from their respective residences.

2. The appellant is the writ petitioner. The writ petition was filed seeking a writ of Mandamus directing the respondents 1 to 3 to provide necessary protection to harvest the Black Grams, which is standing on the petitioner's land in Survey No.100/1, 2, 3, 4 and 5 and also in Survey No.101/3. Since the request of the appellant herein/writ petition to hear the writ petition as an urgent motion was negatived, she is before this Court in this appeal.

3. Earlier, the appellant herself has obtained a similar order for the harvest of paddy crops from this Court on 26.02.2020 in WMP No.5614 of 2020 in W.P.No.4750 of 2020. However, even in the said order, the sale proceeds were directed to be deposited to the credit of O.S.No.34 of 2009 on the file of the District Court, Nagapattinam. As the district judiciary is not entertaining the urgent civil matters also on account of the present COVID-19 situation, the appellant approached this Court seeking the above said relief.

4. Having regard to the fact that the Black Grams, which are mature for picking, we are of the view that the same may be harvested and sold in the market, after undertaking the usual process required. However, as this order is being passed in the absence of the fourth respondent, who claims that he has got interest in the property, we are of the view that an Advocate Commissioner may be appointed in this regard.

5. Accordingly, Mr.S.Karthikesh, Advocate (Enrolment No.329 of 1988), having office at No.23, Veerabhadra Swamy Koil Street, Nagapattinam-611 001, (Mobile No.98424 78205/94868 78205 and E-mail id : madhunikas2003@gmail.com) is appointed as the Advocate Commissioner and he is directed to undertake the following exercises :

(i) The Advocate Commissioner shall issue notice to the appellant and the fourth respondent fixing a date and time for the picking the Black grams ;

(ii) The petitioner shall arrange all the necessary requirements, like labour, etc. for the same and bear the cost also ;

(iii) The Advocate Commissioner shall remain present at the time of harvest, at which point of time, the petitioner and the fourth respondent shall also remain present ;

(iv) It is open to both the parties to bring prospective buyers for selling the sale proceeds and it is for the Advocate Commissioner to sell the crop for a better price ;

(v) The Advocate Commissioner shall deposit the sale proceeds, after reimbursing the cost of picking incurred by the appellant to her, to the credit of the suit in O.S.No.34 of 2009 ;

(vi) The Advocate Commissioner shall be paid an initial remuneration of Rs.25,000/- (Rupees Twenty Five Thousand only) for his efforts, which shall be initially borne by the appellant, and the same can be adjusted from the sale proceeds between the parties before the Civil Court.

(vii) The Advocate Commissioner is at liberty to seek protective assistance from the third respondent, if need be ;

(viii) The parties are directed to extend their full co-operation to the Advocate Commissioner in completing all the aforesaid exercises ;

(ix) The entire exercise shall be completed as expeditiously as possible, but not later than four weeks from the date of receipt of a copy of this order.

6. It is open to the parties to approach the Civil Court for withdrawal of the said amount, after taking out appropriate application.

7. It is not open to the fourth respondent to file any review application in this regard, as this order is being passed conscious of the fact that he has not been put on notice, but only considering the urgency in the matter.

8. With the above directions, this writ appeal stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

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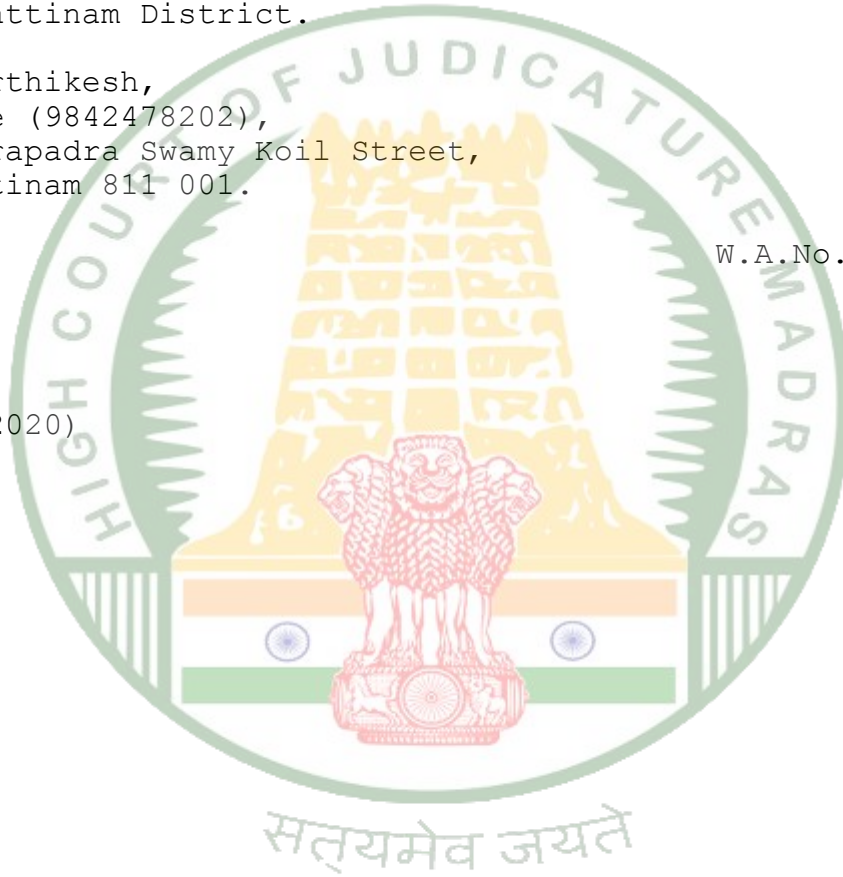
Sub Assistant Registrar

To

1. The District Collector,
Collectorate Office,
Nagapattinam District.
2. The Tahsildar,
Seerkazhi Taluk Office,
Nagapattinam District.
3. The Inspector of Police,
Thiruvengkadu Police Station,
Nagapattinam District.
4. Mr. S. Karthikesh,
Advocate (9842478202),
23, Veerapadra Swamy Koil Street,
Nagapattinam 811 001.

W.A.No.449 of 2020

SVI (CO)
GN(16/07/2020)



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