



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

WRIT PETITION NO.6399 OF 2014

M.Sellaperumal
Son of Late. Muthiah
rep.by his power agent Pitchammal
Wife of Kalimuthu
Sengadu Puthumavaru Village
Gengavalli Taluk
Salem District

... Petitioner

Versus

1. The Collector
Salem District, Salem.

2. Revenue Divisional Officer
Athur Division, Athur
Salem District.

3. Kandasamy

4. Sellappan

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing Respondents 1 and 2 to consider the petition dated 09.07.2013 after providing opportunity to the petitioner and pass orders in accordance with law granting the reliefs of monetary compensation including restoration of the property wrongfully occupied by Respondents 3 and 4 as provided under Rule 12(4) read with Annexure-I schedule of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Rules, 1995.

For Petitioner : Mr.P.Haribabu

For R1& R2 : Mr.Stalin Abhimanyu

For R3 & R4 : Mr.N.A.Ravindran



ORDER

This writ petition has been filed, praying for the issuance of Writ of Mandamus to direct the respondents 1 and 2 to consider the petition dated 09.07.2013 submitted by the petitioner, after providing opportunity to her and pass orders in accordance with law granting the reliefs of monetary compensation including restoration of the property wrongfully occupied by respondents 3 and 4 as provided under Rule 12 (4) read with Annexure-I schedule of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Rules, 1995.

2. According to the petitioner, the lands comprised in Survey No.14/2 measuring 1.07.0 hectares (2.64 acres) bearing Patta No.180 in Senkadu Village originally belonged to Parvathiammal. After her demise in the year 1974, the property devolved on her husband Lakshmana Gounder and three sons namely Pichamuthu, Arumugam and Ramakrishnan. The sons namely Lakshmana Gounder and Ramakrishnan died in the year 1978 and 1993 respectively and therefore, the other two sons succeeded to the above property absolutely. They have also leased out the property to one Venkatachalam on annual rent basis. Since the two sons Pitchamuthu and Arumugam were employed in Malaysia, they executed a registered power of attorney dated 24.05.1977 to the third respondent authorising him to collect the annual rent and look after the property. However, the third respondent, taking advantage of the absence of the principles, sold the property to the fourth respondent on 27.08.2008 by a registered document No.1416/2008 in the office of Sub-Registrar, Thammampatty. According to the petitioners, the power of attorney deed dated 25.04.1997 did not authorise the third respondent to alienate the property to any one. When the petitioner demanded the respondents 3 and 4 to vacate the property, they refused to budge. They also insulted the petitioner and scolded him with his caste name. Therefore, a complaint was given against the third and fourth respondents based on which a case in Crime No. 362 of 2012 was registered and a charge sheet has been filed on 23.03.2013, which was taken cognisance of in P.R.C. No. 16 of 2013 on the file of Judicial Magistrate, Athur. The petitioner also filed a suit in O.S. No. 175 of 2009 for the relief of declaration, possession and permanent injunction against the third and fourth respondents herein before the District Munsif, Athur. The petitioner also given a petition dated 09.07.2013 to the respondents 1 and 2 highlighting the above aspects, but the representation has not been acted upon. In those circumstances, the petitioner has filed this writ petition to direct the respondents 1 and 2 to consider his petition dated 09.07.2013 and for restoration of the property in question.



3. Heard the counsel for both sides and perused the materials on record. It is apparent that the property in question was sold by the third respondent in favour of the fourth respondent by a registered sale deed dated 22.12.2008. The petitioner also filed a substantial suit in O.S. No. 175 of 2009 for the relief of declaration, possession and permanent injunction against the third and fourth respondents herein before the District Munsif, Athur. When such a suit is pending before the competent Civil Court, the direction sought for by the petitioner to direct the respondents 1 and 2 to consider the representation dated 09.07.2013 cannot be granted. The dispute between the petitioner and the third and fourth respondents with respect to the property in question cannot be adjudicated by this Court in the writ proceedings. It is for the petitioner to work out his remedy in the suit filed by him in O.S. No. 175 of 2009 before the District Munsif, Athur and no relief can be granted to the petitioner in this writ petition.

4. Accordingly, this writ petition stands disposed of. No Costs.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

gbi/rsh

To

1. The Collector,
Salem District,
Salem.

2. Revenue Divisional Officer,
Athur Division, Athur,
Salem District.

+1cc to Mr.P.Haribabu, Advocate, S.R.No.38346
+1cc to the Government Pleader, S.R.No.39117

WP.No.6399 of 2014

GSM(CO)
CS/24/09/2021