



WEB COPY

W.P(MD)Nos.8925 and 8929 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 27.07.2021

Pronounced on : 28.10.2021

CORAM

THE HONOURABLE MR.JUSTICE G.ILANGO VAN

W.P(MD)Nos.8925 and 8929 of 2021

and

W.M.P(MD).Nos.6726 and 6727 of 2021

1.M.Arunachalam @ Selvam

S/o.Mahadevan Pillai ... Petitioner in W.P(MD).No.8925 of 2021

2.P.S.Arunachalam

S/o.Subramonia Pillai ... Petitioner in W.P(MD).No.8929 of 2021

Vs.

1.The Principal Secretary to the Government,
Department of Home,
Fort St. George,
Chennai-600 009.

2.The Superintendent of Police,
O/o.The Superintendent of Police,
Nagercoil,
Kanyakumari District.

3.The Deputy Superintendent of Police,
O/o.The Deputy Superintendent of Police,
Nagercoil,
Kanyakumaru District.

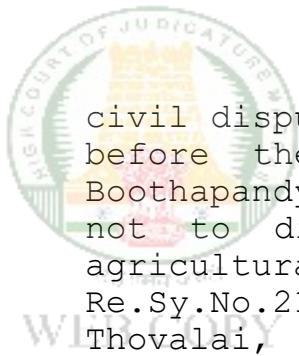
4.The Inspector of Police,
Aralvaimozhi Police Station,
Aralvaimozhi, Kanyakumari District.

5.The Sub Inspector of Police,
Aralvaimozhi Police Station,
Aralvaimozhi.

6.Thiruvavaduthurai Aatheenam,
Rep. by its Aatheenakartha,
Through the Inspector of the Aatheenam,
Suchindrum,
Kanyakumari District. ... Respondents

PRAYER in W.P(MD)No.8925 of 2021: Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, to direct the respondents 3 to 5 not to interfere in the

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civil dispute during the pendency of Civil Suit in O.S.No.30 of 2020 before the Principal District Munsif Cum Judicial Magistrate, Boothapandy, Kanyakumari District and consequently for a direction not to disturb the peaceful possession and enjoyment of the agricultural properties admeasures about 4 acres 28 cents in Re.Sy.No.213/1, 216/1 and 5 and 240/3, Thiruppathisaram Village, Thovalai, Kanyakumari District by considering petitioner representation dated 16.04.2021.

PRAYER in W.P(MD)No.8929 of 2021: Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, to direct the respondents 3 to 5 not to interfere in the civil dispute during the pendency of Civil Suit in O.S.No.31 of 2020 before the Principal District Munsif Cum Judicial Magistrate, Boothapandy, Kanyakumari District and consequently for a direction not to disturb the peaceful possession and enjoyment of the agricultural properties admeasures about 4 acres 9 cents in S.No.216/5, 213/1 and 242/27, Thiruppathisaram Village, Thovalai, Kanyakumari District by considering petitioner representation dated 16.04.2021.

For Petitioner	:	Mr.E.Anto Prince (In both W.Ps)
For Respondents	:	Mr.R.M.Anbunithi (In both W.Ps) Additional Public Prosecutor For R1 to R5 Mr.M.Rama for R6

COMMON ORDER

The property comprised in Re.Sy.Nos.213/1, 216/1, 5, 240/3 and S.Nos.216/5, 213/1 and 242/27 of Thiruppathisaram Village, Thovalai, Kanyakumari District is owned by the 6th respondent/Thiruvavaduthurai Aatheenam herein to his petitioners' forefather namely Arunachalam Pillai by a way of Kuthagapattam Deed executed between them. The petitioners are in possession of the property as a cultivating tenant. On 16.08.2018, the 6th respondent has sent a legal notice to the petitioners' father by demanding him to pay arrears of 1755.29 quintals of paddy. The petitioners were liable to pay only 30 Kottah of paddy as on 16.08.2018. On the receipt of the legal notice, the petitioners have approached the 6th respondent and tendered the value of 30 Kottahs of paddy, but the same was refused. Later, the father of the petitioners' died on 05.02.2020. Thereafter, the petitioners and their brother are doing agricultural activities in the said properties.

2.On the illegal acts and disturbance made by the 6th respondent, the petitioners have filed Civil Suits in O.S.Nos.30 and 31 of 2020 before the Principal District Munsif Cum Judicial



Magistrate, Boothapandy for permanent injunction and the same is still pending. Now, the respondents 3 and 5 are making continuous trouble to the petitioners' peaceful possession and enjoyment of the suit properties. Hence, the present writ petitions are filed.

3. Heard both sides.

4. The 6th respondent has also entered his appearance through advocate and he also filed a counter affidavit. The learned Additional Public Prosecutor appearing for the respondents 1 to 5 has also produced the CD file conducted in C.S.R.No.40 of 2021, which was registered on the basis of the complaint given by the Veeranathan against the petitioners.

5. In the above said complaint, the said management stated that the petitioners along with other persons trespassed in the property of the Thiruvavaduthurai Aatheenam and damaged the coconut trees worth about Rs.7,000/- and now the enquiry is pending.

6. The learned Additional Public Prosecutor would submit that the said properties belongs to the 6th respondent/ Thiruvavaduthurai Aatheenam. According to the petitioners, they are the cultivating tenants in the above said property, which was granted to their forefather through Kuthagapattam deed.

7. The learned counsel for the sixth respondent would submit that the petitioners and their forefather were in possession and enjoyment of the property as a cultivating tenant and because of their failure to pay the lease amount, the possession was taken by the 6th respondent/Thiruvavaduthurai Aatheenam and thereafter, the 6th respondent/Thiruvavaduthurai Aatheenam is in possession of the property as a lawful owner.

8. The 6th respondent/Thiruvavaduthurai Aatheenam has issued a public notice on 01.07.2021 in the news paper, wherein it is stated that the petitioners' forefather did not properly pay the lease amount, for which the property was re-possessioned by the 6th respondent/Thiruvavaduthurai Aatheenam.

9. In respect of the dispute, the petitioners have filed the suit in O.S.Nos.30 and 31 of 2020 before the Principal District Munsif Cum Judicial Magistrate, Boothapandy and the same is still pending. In the suits, the petitioners stated that they are in possession of the property as statutory Tenants. During the course of enquiry, the petitioners have given a statement that they have filed the above said suits for the disputed properties and the same is pending and after the lockdown is lifted, they will resolve the issue amicably between them. On that basis the enquiry was pending.

10. This Court finds that the possession of the property can be decided only after the completion of the course of trial. This cannot be decided in advance.



this petition.

11. In the light of the above said facts and circumstances of this case, this Court directs the petitioners as well as the sixth respondent to workout their remedy in the above said suits and the respondents 4 and 5 to conduct the enquiry as early as possible and close the complaint given by the Veeranathan against the petitioners.

With the above directions, these writ petitions are disposed of. Consequently, the connected miscellaneous petitions are closed. No Costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:

- 1.The Principal Secretary to the Government,
Department of Home,
Fort St. George,
Chennai-600 009.
- 2.The Superintendent of Police,
O/o.The Superintendent of Police,
Nagercoil,
Kanyakumari District.
- 3.The Deputy Superintendent of Police,
O/o.The Deputy Superintendent of Police,
Nagercoil,
Kanyakumaru District.
- 4.The Inspector of Police,
Aralvaimozhi Police Station,
Aralvaimozhi.



5.The Sub Inspector of Police,
Aralvaimozhi Police Station,
Aralvaimozhi.

6.The Aatheenakartha,
Thiruvavaduthurai Aatheenam,
Suchindram, Kanyakumari District.

Copy to

The Principal district Munsif Cum Judicial Magistrate,
Boothapandi,
Kanyakumari District.

+2 CC to M/s.G.ANTO PRINCE, Advocate (SR-33163[F],33162 dated
29/10/2021)

W.P (MD) Nos.8925 and 8929 of 2021
28.10.2021

SRK(CO)
KB(16.11.2021) 5P 10C