



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.10.2021

CORAM :

WEB COPY

**THE HON'BLE MR.SANJIB BANERJEE, THE CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE M.DURAI SWAMY**

W.P. (MD) No.19053 of 2021

and

W.M.P (MD) Nos.15822, 15824 and 15825 of 2021

Rukmani Ammal

... Petitioner

Vs

1.The District Collector,
Virudhunagar District,
Collectorate Complex,
Virudhunagar.

2.The Tahsildar,
Sivakasi Taluk,
Sivakasi,
Virudhunagar District.

3.The President,
Alamarathupatti Village Panchayat,
Sivakasi Union,
Virudhunagar District.

4.The Deputy Superintendent of Police,
Sivakasi Sub Division,
Sivakasi,
Virudhunagar District.

...Respondents

PRAYER: Petition under Article 226 of the Constitution of India seeking issuance of a writ of Certiorarified Mandamus to call for the records pertaining to the impugned order passed by the third respondent, dated 23.08.2021 and quash the entire proceedings as illegal and without jurisdiction and consequently, direct the respondents 1 to 3 to drop all further proceedings relating to the impugned notice issued by the third respondent, dated 23.08.2021.

For Petitioner
For Respondents

: Mr.R.Aravindan
: Mr.B.Saravanan
Government Advocate for R.1, R.2 & R.4

Mr.P.Thilak Kumar for R.3



ORDER

[Order of the Court was made by The Hon'ble CHIEF JUSTICE]

The petitioner complains of high-handed action by the respondent authorities in dispossessing the petitioner from a land which is not owned by the Government and which the petitioner was entitled to occupy in accordance with the prevailing custom and practice.

2. It is evident that the petitioner was dispossessed upon due notice being issued to the petitioner. It further appears that the petitioner has instituted a suit in the month of September, 2021 claiming, *inter alia*, a declaration and consequential relief.

3. Since the petitioner has to assert and establish the petitioner's title over the relevant land and the petitioner has to establish any custom under which the petitioner claims, the petitioner is left free to pursue the suit in accordance with law as disputed questions pertaining to title cannot be conveniently adjudicated in summary proceedings conducted on affidavit evidence under Article 226 of the Constitution.

4. However, if any third party right is created over or in respect of the disputed land, the same will abide by the result of the suit. In other words, if the State grants any patta or any right in favour of any third party in respect of the relevant land, the document should clearly indicate the pendency of the suit so that the doctrine of *lis pendens* can apply.

5. W.P.(MD)No.19053 of 2021 is disposed of with the above observation.

6. It will also be open to the petitioner to make a request to the Civil Court to take up the matter as expeditiously as the business of that Court would permit.

There will be no order as to costs. Consequently, W.M.P(MD) Nos.15822, 15824 and 15825 of 2021 are closed.

Sd/-

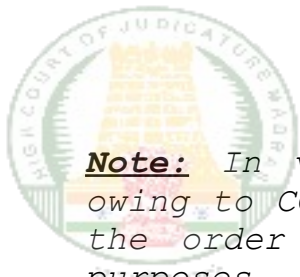
Assistant Registrar (Records)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

MR/RM



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 District Collector,
Virudhunagar District,
Collectorate Complex,
Virudhunagar.
- 2.The Tahsildar,
Sivakasi Taluk,
Sivakasi,
Virudhunagar District.
- 3.The President,
Alamarathupatti Village Panchayat,
Sivakasi Union,
Virudhunagar District.
- 4.The Deputy Superintendent of Police,
Sivakasi Sub Division,
Sivakasi,
Virudhunagar District.

+1 CC to M/s.SPL.GP (SR-32832[F] dated 27/10/2021)

W.P. (MD) No.19053 of 2021
26.10.2021

MGJ/PM(10.11.2021) 3P 6C