



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE ON WHICH RESERVED : 19.01.2021

DATE ON WHICH PRONOUNCED : 17.02.2021

WEB COPY

CORAM:

THE HON'BLE MR JUSTICE G.ILANGOVAN

W.P. (MD)No.17107 of 2017

S.V.Rose Mary

... Petitioner

Vs.

1.The District Collector,
Dindigul,
Dindigul District.

2.The Superintendent of Police,
Dindigul,
Dindigul District.

3.The Deputy Superintendent of Police,
Anti-Land Grabbing Section,
Dindigul,
Dindigul District.

4.The Inspector of Police,
Sanarpatti Police Station,
Sanarpatti,
Dindigul.

5.A.Innasi

6.I.Pilavendran

7.I.Jeyaselan

8.Sundraraj

9.I.Sekar

... Respondents

Prayer : Writ petition filed under Article 226 of the Constitution of India for issuance of a **Writ of Mandamus**, to direct the respondents 1 to 4 to protect and secure the petitioner livelihood at the patta home land premise property in Survey No.594/46, Patta No.73 in and around 0.00.23.0 (one ground) situated at



Vanagamanathu Village, Dindigul East, Dindigul District and subsequently, directing the respondents 5 to 9 not to disturb the said petitioner's patta home land premise property within a stipulated time that may be fixed by this Court.

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For Petitioner: Mrs.G.Kavitha

For R1 to R4 : Mr.M.Ganesan
Government Advocate(Crl.Side)

For R5 : S.Muthalraj

For R6 to R9 : No Appearance

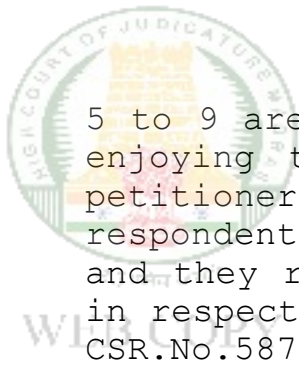
O R D E R

The Writ Petition has been filed to direct the respondents 1 to 4 to protect and secure the petitioner livelihood at the patta home land premise property in Survey No.594/46, Patta No.73 in and around 0.00.23.0 (one ground) situated at Vanagamanathu Village, Dindigul East, Dindigul District and subsequently, directing the respondents 5 to 9 not to disturb the said petitioner's patta home land premise property.

2. The case of the petitioner is that in the year 1989, the husband of the petitioner namely, Arockiasamy acquired the property mentioned in the petition. The petitioner and her husband lived there along with their children till 2009. After that the respondents 5 to 9 started disturbing the petitioner's family with an intention to occupy the land. So, the husband of the petitioner made a complaint before the fourth respondent police station and the same was registered in CSR No. 534 of 2009. In the month of October, 2010, the respondents 5 to 9 destroyed the land, when the petitioner and her family were not in station, for which, complainant was registered. On the basis of the complaint given by the husband of the petitioner, CSR No.587 of 2010 has been registered. So, after that the petitioner and her husband could not rebuild the house. The petitioner's husband died on 12.04.2015. After the death of the her husband, the children are living separately in faraway place. The respondents 6 to 9 are preventing the petitioner from enjoying the property. So, the petitioner, made a representation to the first respondent in the month of April & June of 2016. But, there was no action. Hence, she approached this Court.

3.Here both sides.

4.A perusal of documents produced and the averments made in the writ petition, it is seen that the private respondents namely,



5 to 9 are making disturbance to the petitioner and her family in enjoying the property mentioned in the writ petition. The writ petitioner has not stated the relationship between herself and the respondents 5 to 9. She also stated that they are the neighbours and they residing in the same village and it is further seen that in respect of damage to their house, a case has been registered in CSR.No.587 of 2010 on the file of the fourth respondent police.

5. When it is being so, the contention on the part of the petitioner that her possession must be protected by the official respondents cannot be accepted. If any disturbance or nuisance is created by the private respondents, the petitioner has to work out her remedy only through proper legal course. The relief sought in the writ petition is itself ambiguous in nature. No writ of mandamus will lie against the private persons. Moreover, when equally efficacious remedy available, this Court cannot exercise its power under Article 226 of Constitution of India. In the writ petition, factual dispute cannot be gone into. So, the only order if at all can be passed by this Court is directing the fourth respondent to proceed in accordance with law, if not already action taken in the complaints given by the husband of the petitioner.

6. The writ petition stands disposed of in the above terms. No costs.

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

dss

To

1. The District Collector,
Dindigul,
Dindigul District.

2. The Superintendent of Police,
Dindigul,
Dindigul District.



3.The Deputy Superintendent of Police,
Anti-Land Grabbing Section,
Dindigul,
Dindigul District.

4.The Inspector of Police,
Sanarpatti Police Station,
Sanarpatti,
Dindigul.

+1 CC to Mr.NA.PALANIYANDI, Advocate (SR-5802[F] dated 17/02/2021)

+1 CC to M/s.G.KAVITHA, Advocate (SR-6126[F] dated 19/02/2021)

W.P. (MD)No.17107 of 2017
17.02.2021

KM (10.03.2021) 4P 7C