



C.M.P.No.18152 of 2022 in W.A.SR No.84032 of 2022

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WEB C THE HON'BLE ACTING CHIEF JUSTICE

and

D.KRISHNAKUMAR, J.

(Order of the Court was made by The Hon'ble Acting Chief Justice)

The petitioner, Mr.Kannan, S/o Krishnamurthi has filed this civil miscellaneous petition seeking leave to appeal against the order dated 15.02.2013 passed in Writ Petition No.10728 of 2008 nine long years ago, on the premise that originally the subject property was allotted in favour of one Mr.P.K.Loganathan in the year 2008 under the Pondicherry Land Acquisition and Development Scheme Rules, 1969. After the demise of Mr.P.K.Loganathan on 14.11.2013, his wife Mrs.Prema continued with the possession. However, as the said Mrs.Prema had no legal heirs and she also died on 14.04.2018, it is the claim of the petitioner that he has inherited the said property, as he is the brother of the said Mrs.Prema. Learned counsel appearing for the petitioner further submitted that after inhering the property belonging to Mrs.Prema who died on 14.04.2018, the petitioner moved the Court to declare himself as the sole legal heir of the deceased Mrs.Prema. Accepting the same, it was recorded in the award dated 14.12.2019 passed



C.M.P.No.18152 of 2022 in W.A.SR No.84032 of 2022

by the Lok Adalat in L.A.C.No.22016 of 2019 in O.S.No.1074 of 2019 by

the learned Principal District Munsif, Puducherry and thereafter, the petitioner was also issued with the patta for the said land. After obtaining the declaration, when the petitioner went to inspect the said land, he was shocked to see that the writ petitioner-Pushpavalli had encroached a portion of the petitioner's land by building a brick wall and gate by planting some plants inside the same. Besides, she had also raised RCC building to an extent of 300 sq.ft., in the said land. Thereafter, when the petitioner approached the writ petitioner to clear the encroachments, she threatened him of dire consequences. Therefore, a police complaint has also been given against the writ petitioner. Subsequently, on coming to know that an order has been passed by the learned single Judge in Writ Petition No.10728 of 2008 on 15.02.2013, he has filed the present petition seeking leave to challenge the said order.

2. But we do not find any merit in the said contentions. Admittedly, when a notice dated 03.04.2008 was issued by the Chief Town Planner, Town & Country Planning Department, Puducherry against the writ petitioner-Pushpavalli to remove the encroachments, she filed the Writ



Petition No.10728 of 2008 before this Court challenging the said notice, on the ground that when she had been in possession of the property since 1970; that she had also fenced the property in her possession and that she has requested the Chief Town Planner, Town & Country Planning Department to refrain from demolishing the bathroom and cut the trees planted by the writ petitioner, the learned single Judge, after hearing the parties, partly allowed the writ petition, quashing a part of the impugned notice directing the writ petitioner to vacate the premises within seven days, upholding the order rejecting her request for transfer of land, observing therein that the dispute between the writ petitioner and the present owner being already pending in the civil Court for adjudication; that the impugned notice showing that the ownership of the property vests with Mr.P.K.Loganathan, who can take appropriate proceedings in accordance with law to get back the possession, but the respondents cannot direct the eviction of the writ petitioner after the land ceases to be the Government land. It is also the admitted case of the petitioner herein that he moved the Lok Adalat to declare himself as the sole legal heir of the deceased Mrs.Prema, who died on 14.04.2018, being the wife of Mr.P.K.Loganathan, who also died on 14.11.2013 and an award has also been passed by the learned Principal



C.M.P.No.18152 of 2022 in W.A.SR No.84032 of 2022

District Munsif, Puducherry on 14.12.2019 in L.A.C.No.22016 of 2019 in

O.S.No.1074 of 2019 declaring him as the sole legal heir of the deceased

Mrs.Prema. When the rights have accrued to the petitioner herein only in

the year 2018 and not in the year 2013, we do not find that the order dated

15.02.2013 passed in the writ petition had affected his rights. While making

such an observation, we do not find any necessity or any need to grant leave.

Therefore, leave is refused and the miscellaneous petition stands dismissed.

Consequently, W.A.SR.No.84032 of 2022 stands rejected.

(T.R.,A.C.J.) (D.K.K.,J.)

26.10.2022

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