



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.03.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.21809 of 2021

and W.M.P.No.22997 and 26550 of 2021

A.C.Lakshmikanthan

... Petitioner

Vs.

1.The District Collector,
Tirupattur District, Tirupattur.

2.The General Manager,
Chennai Petroleum Corporation,
No.536, Anna Salai,
Teynampet, Chennai.

3.The Project Director,
National Highways Authority of India,
Ministry of Road Transport,
Power House Colony, Thiruvalluvar Nagar,
Krishnagiri 635 001.

4.R.R.Vasu @ Vijayashankar

5.V.S.Suriya

... Respondents

PRAYER: The Writ Petition filed under Section 226 of Constitution of India, pleased to issue a Writ of Mandamus forbearing the respondents to 1 to 3 from in any manner allowing or permitting the 4th and 5th respondents to proceed and process with the commencement or installation of any Petrol Bunk in Old S. No. 199, 216-B / 1 Division, 2nd Ward, 15th Block, Old T. S. No. 632, 633, 634 and 635 as per New Settlement Survey Patta No. 108, ward F, Block 26 New T. S. No. 54/1, 55/1, Sub Division as 54/1A and 55/1A of Punja Lands totally to an extent of Acres 1.16 1/2 cents without first establishing the right over the demised property on the basis of the representation dated 07.09.2021 on merits and as per law.



WEB COPY

For Petitioners : Mr.L.Chandrakumar
For RR1 : Mr.G.Nanmaran
Special Government Pleader
For RR3 : Mr.Su.Srinivasan
For RR4 and R5 : Mr.AR.L.Sundaresan
Senior Counsel for
Ms.AL.Gandhimathi

O R D E R

The petitioner has filed this petition for Writ of forbearing the respondents to 1 to 3 from in any manner allowing or permitting the 4th and 5th respondents to proceed and process with the commencement or installation of any Petrol Bunk in Old S. No. 199 216-B / 1 Division 2nd Ward 15th Block Old T. S. No. 632 633 634 and 635 as per New Settlement Survey Patta No. 108 ward F Block 26 New T. S. No. 54/1 55/1 Sub Division as 54/1A and 55/1A of Punjai Lands totally to an extent of Acres 1.16 1/2 cents without first establishing the right over the demised property on the basis of the representation dated 07.09.2021,

2. The case of the petitioner is that the petitioner had jointly purchased the properties way back during 2002 in Old S. No. 199, 216-B / 1 Division, 2nd Ward, 15th Block, Old T. S. No. 632, 633, 634 and 635 as per New Settlement Survey Patta No. 108, ward F, Block 26 New, T. S. No. 54/1 and 55/1, Sub Division as 54/1A and 55/1A of Punjai Lands, totally to an extent of Acres 1.16 1/2 cents, through a registered Doc.No.735/2002. During the year 2008, the said property came to be mortgaged by depositing title deed in favour of one Thiru.R.R.Vasu, on specific condition that the amount so received shall be repaid within two years and thereafter, upon the repayment, the petitioner was put into possession and enjoyment of the same. However taking advantage of the non cancellation of the Mortgage Deed, the said Vasu had chosen to create third parties interest. Despite of repeated intimation, the said Vasu did not choose to come forward to cancel the said Mortgage Deed. It is further alleged by the petitioner that a Suit of cancellation of the Mortgage Deed in Doc.No.5110/2008, on the file of the Sub Court, vaniyambadi, came to be filed by the petitioner in O.S.No.255/2020 has been filed by the petitioner and the same is pending. In spite of the pendency of the Suit, the said Vasu had chosen to settle the property in favour of his son and now taking steps to install a petrol bunk. Aggrieved by the same, the present Writ Petition is filed.



WEB COPY

3. The learned counsel appearing for the petitioner submitted that this Court without going into the merits of the case, may permit the petitioner to canvass all those points before the Civil Court, where the Suit is pending.

4. The learned Special Government Pleader has no serious objections for the said order being passed.

5. The learned Senior counsel appearing for the private respondent submitted that the private respondents are in possession of the property in question, however the petitioner claimed that he is in possession and the same cannot be acceptable and further the possession cannot be decided by this Court under Article 226 of the Constitution of India. Admittedly, the petitioner has already filed a Suit before the competent Civil Court for his grievance. However, the petitioner without approaching the Civil Court, filing the Writ Petition against the respondents, is not sustainable and prays for dismissal of this petition.

6. This Court has carefully considered the rival submissions and also perused the materials placed before it.

7. Considering the limited request made by the petitioner, this Court without going into the merits of the case, permits the petitioner to workout his remedy before the competent Civil Court in the pending Suit and the Trial Court, without being influenced by any of the order passed by this Court, shall decide the Suit independently.

8. Accordingly, this Writ Petition is dismissed. No costs. Consequently connected miscellaneous petitions are closed.

SD/-
ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR

sk
To

1. The District Collector,
Tirupattur District,
Tirupattur.



2.The General Manager,
Chennai Petroleum Corporation,
No.536, Anna Salai,
Teynampet, Chennai.

WEB COPY

3.The Project Director,
National Highways Authority of India,
Ministry of Road Transport,
Power House Colony, Thiruvalluvar Nagar,
Krishnagiri 635 001.

+lcc to M/s.A.L.Ganthimathi, Advocate Sr.15448
+lcc to Mr.L.Chandrakumar, Advocate Sr.15139

W.P.No.21809 of 2021

jp[col
srg 21/03/2022