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Writ Petition No.28638 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.11.2022

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

Writ Petition No.28638 of 2022

and

W.M.P.No.27914 of 2022

C.Shiva

... Petitioner

VS.

1. The Revenue Divisional Officer,(RDO)
South Chennai Revenue Division,
Guindy,
Chennai – 600 032.

2. The Tahsildar,
Guindy Taluk,
Guindy, Chennai – 600 032.

...

Respondents

Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the first respondent to hand over the possession of the premises bearing Door.No.5, Jawarharlal Nehru Street, Thiyagaraya Nagar, Chennai – 600 017 by considering the representations of the petitioner dated 17.05.2022 and 31.05.2022.

For Petitioner : Mr.P.Nagaraju

For Respondents : Mr.U.Bharanidharan



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Additional Government Pleader

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ORDER

This writ petition is filed seeking for issuance of a writ of mandamus to direct the first respondent to hand over the possession of the premises bearing Door.No.5, Jawarharlal Nehru Street, Thiyagaraya Nagar, Chennai – 600 017 by considering the representations of the petitioner dated 17.05.2022 and 31.05.2022.

2. It is the case of the petitioner is that the one C.L.Saratha adopted the petitioner in the year 1982. Thereafter, petitioner married one Padmini which was arranged by his adoptive mother i.e., C.L.Saratha and the petitioner was blessed with two daughters. While that being so, the petitioner's wife died and after her demise, said C.L.Saratha executed a Will dated 05.02.2010 in favour of the petitioner. Subsequently, said C.L.Saratha died on 18.07.2020. Thereafter, the petitioner filed a petition before this Court to probate the Will in O.P.No.812 of 2021. Such being the case, some third parties gave hindrance to the petitioner's possession. Suddenly, the second respondent detained the petitioner at police station and sealed the residence of the petitioner. In the meanwhile one Amuthavalli filed an



impleading petition in the probate petition claiming that she is class IV legal heir. Since the petitioner's belongings were held inside his residence and to hand over his residence, he made representations before the first respondent dated 17.05.2022 and 31.05.2022, but the same was not considered. Hence the present writ petition.

3. Learned counsel appearing for the petitioner submits that though the petition filed by the petitioner before this Court in O.P.No.812 of 2021 to probate the Will dated 05.02.2010, is pending adjudication, sealing the petitioner's premises along with the personal belongings and evicting the petitioner and his daughters from their residence is not sustainable. Accordingly, he prayed for appropriate orders.

4. Learned Additional Government Pleader appearing for the respondents, submitted that before evicting the petitioner and his daughters from the property in question, the Revenue officials allowed the petitioner to take their personal belongings which were kept inside the said premises and the same was acknowledged by one Aishwarya i.e., petitioner's daughter.



Hence the grievance of the petitioner is not sustainable. Since there was no proof to substantiate the petitioner's right over the subject property and the petitioner is the adoptive son of said C.L.Saratha, he was dispossessed from the property in question. Subject to the result of the probate O.P. which is pending before this Court in O.P.No.812 of 2021, appropriate orders will be passed.

5. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

6. It is pointed out that the subject property was owned by one C.L.Saratha. It is alleged that the said C.L.Saratha executed a Will dated 05.02.2010 in favour of the petitioner which is the subject matter of O.P.No.812 of 2021 in which no order has been passed till date. However, learned Additional Government Pleader appearing for the respondents fairly submitted that subject to the result of the probate O.P. in O.P.No.812 of 2021 appropriate orders will be passed. In view of the above this Court is not inclined to grant any affirmative order in favour of the petitioner. Hence,



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this writ petition is dismissed with liberty to the petitioner to work out his remedy in the manner known to law.

7. With the above observations, this writ petition is dismissed.

Consequently connected miscellaneous petition is closed. No costs.

01.11.2022

RAP

Index : Yes/No
Speaking order : Yes/No

To:

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M.DHANDAPANI, J.

RAP

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