



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:04.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P (MD)No.7364 of 2020

and

W.M.P (MD)No.6811 of 2020

WEB COPY

Saravanan

... Petitioner

Vs.

1.The District Collector,
Office of the District Collectorate,
Ramanathapuram District.

2.The Sub-Divisional Magistrate cum Sub-Collector,
Paramakudi Sub-Division,
Paramakudi, Ramanathapuram District.

3.Guruvammal

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India seeking for issuance of a Writ of Certiorari to call for the records pertaining to the impugned order passed by the second respondent in Na.Ka.No.A2/2445/2015 dated 05.06.2015 and quash the same.

For Petitioner	: Mr.D.S.Haroon Rasheed
For R-1 & R-2	: Mr.M.Sakthi Kumar, Government Advocate
For R-3	: M/s.A.Banumathy

ORDER

The writ petition has been filed challenging the order passed by the second respondent Executive Magistrate by order dated 05.06.2015 wherein he initiated proceedings under Section 145 Cr.P.C., and directed the petitioner not not to evict the six families residing in the suit property.

2. The main ground of challenge is that the learned Executive Magistrate has passed the order on the ground that since a civil suit is pending between the parties, till such time, there should not be any eviction.

3. According to the learned counsel for the petitioner, there is no civil suit pending and therefore, the order of the learned Executive Magistrate, is to be set aside.

4. When the Court has posed a question as to whether the said people are residing in the property, the learned counsel for the petitioner would state that they are still residing in the property.



5. It is the case of the petitioner that his father purchased the property in the year 1991. However, it appears that no suit whatsoever has been filed for recovery of possession till now. Be that as it may, as the other groups are residing in the suit property, the parties have recourse under due process of law to agitate their rights.

In the result, the Writ Petition is allowed and the order of the second respondent, dated 05.06.2015, is set aside since it is observed that civil suit is pending, which is not actually pending on the date of order. However, the six families residing in the suit property as referred to in the impugned order should not be evicted except by due process of law. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (P&A)

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/ /2022

Sub Assistant Registrar(CS)

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To:

- 1.The District Collector,
Office of the District Collectorate,
Ramanathapuram District.
- 2.The Sub-Divisional Magistrate cum Sub-Collector,
Paramakudi Sub-Division,
Paramakudi, Ramanathapuram District.

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MGJ(23.03.2022) 2P 3C