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W.P(MD)No.11829 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.06.2022

CORAM

THE HONOURABLE **MR.JUSTICE S.S.SUNDAR**

and

THE HONOURABLE **MRS.JUSTICE S.SRIMATHY**

W.P(MD)No.11829 of 2022

and

W.M.P(MD)No.8415 of 2022

Malarkodi

... Petitioner

Vs.

1.The District Collector,
Sivagangai District, Sivagangai.

2.The District Revenue Officer,
Sivagangai District, Sivagangai.

3.The Revenue Divisional Officer,
Sivagangai, Sivagangai District.

4.The Tahsildar, Kalaiyarkovil Taluk,
Sivagangai District.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, to forbear the fourth respondent from evicting the petitioner from the lands in Survey Nos.196/13 (0.36.0 Ares), 196/14 (0.11.0 Ares) and 195/7 (53 cents) situated in Vannikudi Village Group, Kalyarkovil Taluk, Sivagangai District without due process of law.

For Petitioner

:Mr.V.Kannan

For Respondents

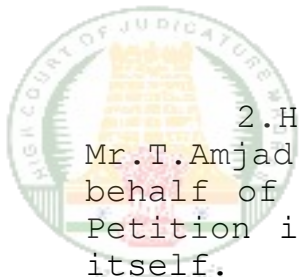
:Mr.T.Amjad Khan

Government Advocate

ORDER

(Order of the Court was made by **S.S.SUNDAR, J.**)

This Writ Petition has been filed for issuance of a Writ of Mandamus to forbear the fourth respondent from evicting the petitioner from the lands in Survey Nos.196/13 (0.36.0 Ares), 196/14 (0.11.0 Ares) and 195/7 (53 cents) situated in Vannikudi Village Group, Kalyarkovil Taluk, Sivagangai District without due process of law.



2.Heard Mr.V.Kannan, learned Counsel for the petitioner and Mr.T.Amjad Khan, learned Government Advocate, who takes notice on behalf of the respondents. By consent of both parties, this Writ Petition is taken up for final disposal at the stage of admission itself.

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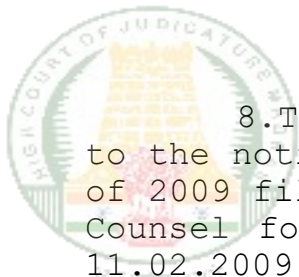
3.Brief facts that are necessary for the disposal of this Writ Petition are as follows:

4.It is stated that the lands measuring to an extent of 0.36.0 ares in Survey Nos.196/13, 0.11.0 ares in S.No.196/14 and 53 cents in S.No.195/7 situated in Vannikudi Village Group, Kalyarkovil Taluk, Sivagangai District, were assigned in favour of the petitioner to promote agriculture and farming amongst the spouses of Government servants, vide order dated 29.04.2000, passed by the fourth respondent. The lands, which were assigned in favour of the petitioner, were subsequently cultivated by her.

5.However, it is admitted that the assignment in favour of the petitioner was cancelled in the year 2007. It is the further case of the petitioner that the order of cancellation of assignment was challenged by her before the appellate forum and she has also questioned the order of the appellate forum, which confirmed the cancellation of assignment before this Court in W.P.(MD)No.919 of 2009. Though this Court has no clue as to how a Writ Petition filed in the year 2009 is yet to be disposed of, the learned Counsel for the petitioner still maintained that the Writ Petition is still pending before this Court. However, the learned Counsel for the petitioner admitted that there is no interim order passed in that Writ Petition.

6.However, in a Writ Petition filed by a third party before this Court in W.P.(MD)No.10515 of 2022, for removal of encroachment by the petitioner herein, this Court, by order, dated 24.06.2021, without going into the merits of the contentions, directed the revenue officials to afford an opportunity of hearing to both the petitioner therein and the Writ Petitioner herein before arriving at a decision. If the fourth respondent herein finds that there is any encroachment, this Court made it clear that the fourth respondent herein should take appropriate steps immediately. It is thereafter, the present Writ Petition is filed.

7.The petitioner is unable to convince this Court that the petitioner has any right over the land, especially, when the assignment in favour of the petitioner was cancelled and the cancellation order was upheld by this Court in the Writ Petition filed by the Writ Petitioner. Except the statement made by the learned Counsel for the petitioner that the Writ Petition filed by the petitioner is pending before this Court, in which, the cancellation of assignment was challenged, the petitioner is not able to produce any documents to show that this Court has granted an



8.The learned Additional Government Pleader has now brought to the notice of this Court that the Writ Petition in W.P.(MD)No.919 of 2009 filed by the petitioner, as per the statement of the learned Counsel for the petitioner, was disposed of by this Court even on 11.02.2009.

9.Having regard to the statement made by the learned Counsel for the petitioner, this Court is unable to hold in favour of the petitioner or find any absolute right on the basis of the so called assignment in favour of the petitioner. As on date, the petitioner is a trespasser and therefore, the respondents are entitled to take action by resorting to the provisions of the Tamil Nadu Land Encroachments Act. The learned Additional Government Pleader, on instructions, states that the petitioner will be evicted and the encroachments will be removed by following due process of law.

10.Recording the statement made by the learned Additional Government Pleader, this Writ Petition is dismissed, as devoid of any merit. The respondents shall take necessary action for removal of encroachments by resorting to the provisions of Section 7 of the Tamil Nadu Land Encroachments Act and pass final orders after hearing the petitioner within a period of six weeks from the date of receipt of a representation or objection from the petitioner in response to the notice issued under Section 7 of the Tamil Nadu Land Encroachments Act. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS III)

// True Copy //

/06/2022

Sub Assistant Registrar(CS)

cmr
To

- 1.The District Collector,
Sivagangai District, Sivagangai.
- 2.The District Revenue Officer,
Sivagangai District, Sivagangai.
- 3.The Revenue Divisional Officer,
Sivagangai, Sivagangai District.
- 4.The Tahsildar, Kalaiyarkovil Taluk,
Sivagangai District.

+1 CC to M/s.SPL.GP (SR-26453[F] dated 17/06/2022)

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