



W.P.(MD) No.19893 of 2013

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.01.2023

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

AND

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD)No.19893 of 2013

and

M.P.(MD)No.2 of 2013

1.Sulochana Ammal

2.S.Arunachalam

3.S.Anbalagan

4.S.Duraisingam

Rep. by Power Agent S.Arunachalam

5.S.Sidharthan

6.A.Santhini

7.Padmini

... Petitioners

-Vs-

1.The Tahsildar,

Natham Taluk, Dindigul District.

2.The District Collector,

Dindigul District, Dindigul.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to put back the petitioners

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forthwith in possession of the 3.53.0 hectares of land in Survey No.163 of Nadumandalam Village, Natham Taluk, Dindigul District, from which land the petitioners were unlawfully evicted on 22.11.2013 apart from paying such compensation to the petitioners as may be determined by this Court.

For Petitioners : Mr.R.Ponkarthikeyan

For Respondents : Mr.P.Thilak Kumar,
Government Pleader

ORDER

[Order of the Court was made by D.KRISHNAKUMAR, J.]

The petitioners have filed this Writ Petition seeking possession of the land to the extent of 3.53.0 hectares in Survey No.163, Nadumandalam Village, Natham Taluk, Dindigul District.

2.According to the petitioners, they filed a suit in O.S.No.20 of 2008 on the file of the learned District Munsif, Natham seeking declaration and permanent injunction against the respondents herein and the same was decreed in favour of the petitioners. Challenging the same, the respondents filed an appeal in A.S.No.95 of 2012 on the file of the Sub Court, Dindigul and the same

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was allowed by reversing the judgment and decree passed by the trial Court.

Aggrieved by the same, the petitioners filed Second Appeal before this Court in S.A.(MD)No.901 of 2013, wherein an interim order was granted and the same is still pending. Pending the same, the respondents have taken action for removing the petitioners from the land in question. Therefore, the petitioners are before this Court with the aforesaid prayer.

3.The learned Government Pleader for the respondents submitted that the appeal filed by the respondents was allowed by setting aside the judgment and decree passed by the trial Court. If the petitioners are aggrieved by the same, they have to take immediate action for getting interim order. Therefore, at that time, since there is no legal embargo for taking possession of the land in question, the respondents have taken steps for removal of the petitioners from the land in question.

4.Heard the learned counsel for the petitioners and the learned Government Pleader for the respondents and perused the materials available on record carefully.

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5.It is an admitted fact that the petitioners filed a suit, seeking declaration and permanent injunction against the respondents and the same was decreed in favour of the petitioners. Aggrieved by the same, the respondents filed an appeal and the same was allowed by setting aside the judgment and decree passed by the trial Court. Therefore, the respondents have proceeded with for evicting the petitioners from the land in question.

6.We are of the view that the prayer sought for by the petitioners cannot be granted for the simple reason that the entire issue is now pending consideration before this Court in S.A.(MD)No.901 of 2013. Therefore, the petitioners are having remedy in the Second Appeal. In view of the above, this Writ Petition is liable to be rejected and the same is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

[D.K.K., J.] & [R.V., J.]
24.01.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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