



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Monday, the Twelfth day of June Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice C.V.KARTHIKEYAN

W.M.P(MD).Nos.6798 and 4360 of 2023

in

WP(MD). No.4689 of 2023

Sundaram ... Petitioner in W.M.P(MD).Nos.6798 of 2023 /
4th Respondent in W.M.P(MD).Nos.4360 of 2023

Vs

1. Raja @ Muthiah.S...1st Respondent in W.M.P(MD).Nos.6798 of 2023/
petitioner in W.M.P(MD).Nos.4360 of 2023
2. The District Collector
Sivagangai, Sivagangai District.
3. The District Revenue Officer
Sivagangai, Sivagangai District.
4. The Revenue Divisional Officer,
Devakottai Zone,
Sivagangai District. ... Respondent 2 to 4
in W.M.P(MD).Nos.6798 of 2023/
Respondents one to three
in W.M.P(MD).Nos.6798 of 2023

Prayer in W.M.P(MD).Nos.6798 of 2023

This miscellaneous petition filed under Article 226 of the Constitution of India to vacate the stay order granted by this Hon'ble Court on 03.03.2023 in W.M.P.No.4360 of 2023 in W.P.(MD). No.4689 of 2023 and dismiss the above writ petition.

Prayer in W.M.P(MD).Nos.4360 of 2023

This miscellaneous petition filed under Article 226 of the Constitution of India to grant stay all further proceedings pursuant to the impugned proceedings in appeal No. Moo.Mu.Pil-35861-2022 dated 01.02.2023 passed by the 1st respondent confirming the order passed in proceedings No.Moo.Mu.Aa1-4949-2022 dated 07.10.2022 by the 3rd respondent.

Prayer :-

Writ Petition, filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records pertaining to the impugned orders passed by the 1st



respondent in No. Moo.Mu.Pil-35861-2022 dated 01.02.2023 concerning the order passed in proceedings No.Moo.Mu.Aal-4949-2022 dated 07.10.2022 by the 3rd respondent

ORDER:- These Miscellaneous Petitions coming on for orders on this day and upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Thiru.M.Gurusamy, Advocate for the Petitioner in W.M.P(MD).Nos.6798 of 2023 and fourth Respondent in in W.M.P(MD).Nos.4360 of 2023 and of Thiru.R.Anandhraj, Advocate for the petitioner in W.M.P(MD).Nos.4360 of 2023 and first respondent in W.M.P(MD).Nos.6798 of 2023 and of Thiru.N.Muthu vijayan, Special Government Pleader for respondents one to three in in W.M.P(MD).Nos.4360 of 2023 and respondents two to four in W.M.P(MD).Nos.6798 of 2023 this Court made the following order:

The Writ Petitioner is aged 36 years. He had filed a Writ Petition in the nature of Certiorari seeking interference with an order passed by the District Collector/first respondent in No.மு.மு.பி.1-35861-2022, dated 01.02.2023, whereby the District Collector had confirmed the earlier order passed in No.மு.மு.அ.1-4949-2022, dated 07.10.2022 by the third respondent / Revenue Divisional Officer, Devakottai Zone, Sivagangai District.

2. The fourth respondent is the father of the petitioner herein, his age is 72 years. When the Writ Petition came up for admission, a learned Single Judge of this Court had passed the following :-

"Notice of motion returnable by four weeks. Private notice is also permitted.

There shall be an order of interim stay."

3. Seeking to vacate that particular order, W.M.P(MD) No.6798 of 2023 has been filed.

4. It is seen from the impugned order that a direction had been given by the first respondent to the Tahsildar, Devakottai, to ensure that the fourth respondent/senior citizen be put in possession of the property at No.156, Kottakudiyiruppu, Thiruppakottai Post, Devakottai Taluk, Sivagangai District - 630 303.

5. It is seen that since there is an order of stay, the senior citizen has been forced to stay in a neighbour's property. It is claimed by the learned counsel who had filed the petition to vacate the order of stay that the title to the said property stands in the name of the father/senior citizen. However, it is in occupation of the writ petitioner. It is not known why the Tahsildar, has not yet put the order into effect. The order of interim stay granted on 03.03.2023 being bereft of any reason and



containing the only words "There shall be an order of inter. straightaway stands vacated.

6. If any interim orders are passed by the Court so that the parties must have clarity as to why such an order was passed. By this order, even this Court does not know why the order was passed particularly, because the title to the property stands in the name of the fourth respondent / senior citizen.

7. A direction is therefore, given to the Tahsildar, Devakottai, to immediately put into effect the order of the first respondent / District Collector and put the fourth respondent/senior citizen in possession of the property at No.156, Kottakudiyiruppu, Thiruppakottai Post, Devakottai Taluk, Sivagangai District - 630 303. If this requires, the writ petitioner to vacate the premises, he is directed to vacate and hand over the possession and later on, the terms of possession can be examined. But the order of the District Collector must be forthwith put into effect by the Tahsildar. For this purpose, the Tahsildar may also take the assistance of the Jurisdictional Police officials. The Tahsildar must realize that he is bound by any order in the hierarchy of his own Revenue Authorities and that the District Collector is the administrative head of the Revenue Department so far as the District is concerned and the Tahsildar cannot act as an extra judicial authority and refuse to obey the orders of the District Collector.

8. The orders of the District Collector are retained and they should be put in effect. This entire act of putting an order into effect must be done within a period of 10 working days from this date.

9. The learned Special Government Pleader may forward the order of this Court to the Tahsildar, Devakottai, so that it could be put into effect and without any reference, the jurisdictional Police assistance may be taken by the Tahsildar.

10. This Court had first opined that the Legal Service Authority assistance can be used in this instance, but since it is clear that the petitioner is in unlawful occupation of the said premises, it is time that such unlawful occupation put to an end. He has been in occupation and enjoying the orders of stay. Now it is the turn of his own father to continue to be in possession and the father can take a decision whether to permit the writ petitioner to be in possession in a portion of the property or not.

11. For appearance of the Tahsildar, Devakottai, in person before this Court along with the Jurisdictional Inspector of Police, to report that the fourth respondent had been put back in possession of the property, list the matter on 22.06.2023 at 2.15 p.m.



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12. In view of the orders passed in vacate stay pe in
W.M.P(MD) No.6798 of 2023, the W.M.P(MD) No.4360 of 2023 stands
dismissed.

Sd/-

Assistant Registrar(RTI)

// True Copy //

15/06/2023

Sub Assistant Registrar(CS)

To

- 1.The District Collector
Sivagangai, Sivagangai District.
2. The District Revenue Officer
Sivagangai, Sivagangai District.
3. The Revenue Divisional Officer,
Devakottai Zone, Sivagangai District.
- 4.The Tahsildar, Devakottai

Copy to

- 1 The Government Pleader,
Madurai Bench of Madras High Court Madurai
2. The Section Officer,
Writ Posting section, Madurai Bench of Madras High Court Madurai

MK/15.06.2023 4P 7C