



W.P.(MD)No.20648 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.08.2023

CORAM:

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

and

THE HONOURABLE **MR.JUSTICE D.BHARATHA CHAKRAVARTHY**

W.P(MD)No.20648 of 2023

and

W.M.P(MD)No.17078 of 2023

Jothilingam

... Petitioner

Vs.

1.The General Manager(Administration),
SIDCO Registered Office,
New SIDCO Corporate Office,
Thiru.V.Ka.Industrial Estate,
Guindy,
Chennai – 600 032.

2.The Branch Manager,
SIDCO Industrial Estate,
K.Pudur, Madurai,
Madurai District.

3.V.Rajan

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order vide Eviction Process No.922/A1/2022 dated 14.08.2023 passed by the second respondent and quash the same as illegal and further direct him not to take any further course of action till disposal of suit in O.S.No.314 of 2022 on the file of the Additional District Munsif Court .

For Petitioner

:Mr.J.David Ganesan



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ORDER

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

Heard Mr.J.David Ganesan, learned counsel for the petitioner.

2. This Writ petition is filed to quash the impugned order passed by the second respondent, dated 14.08.2023, under the provisions of the Tamil Nadu Public Premises Act, 1975(Act 1 of 1976).

3. The case of the petitioner is that the petitioner is in possession of the premises in respect of which, eviction order is passed by the second respondent. According to the petitioner, he is running a Small Scale Industry by manufacturing Charcoal in the land measuring to an extent of 10 & 10 sq. ft., in Survey No.33/70 situated at Thirumangalam, Madurai. Stating that the petitioner is in possession of the premises for more than 30 years by establishing a Small Scale Industry without any intervention by the respondents, the petitioner states that as he is in settled possession, he is entitled to protect his right.

4. The further case of the petitioner is that eviction proceedings is initiated only at the instance of the petitioner's neighbour, who is the third respondent in this writ petition. The third respondent has earlier filed a writ petition in W.P(MD)No.1912 of 2021 wherein the writ petitioner points out



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the allegation against the present petitioner that he has encroached the water body. Therefore, this Court had directed to take appropriate action in accordance with law after issuing notice under the provisions of the Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007.

5. The petitioner has admitted that he is in possession of the site in the Industrial Estate, which is developed by the first respondent. Though it is claimed that the petitioner is an entrepreneur and running a factory in the premises, he cannot under that guise, take advantage of his possession resist the action for removal of encroachment. When the land belongs to the first respondent, this Court has no reason to doubt the competency of the respondents 1 and 2 as the absolute owner of the Industrial Estate to initiate action under the provisions of the Tamil Nadu Public Premises Eviction of unauthorised Occupants Act, 1975.

6. This Court is unable to find any procedural violation. It is only after issuance of show-cause notice and finding that the petitioner has not responded to the show-cause notice, final order has been passed in terms of Section 5 of the Tamil Nadu Public Premises Act, 1975. Since the petitioner is in encroachment, this Court is unable to show any indulgence to the petitioner. Hence, this writ petition is liable to be dismissed.



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7. The submission of the learned counsel for the petitioner that the petitioner has filed a civil suit and therefore, the respondents cannot proceed further, cannot be sustained because the petitioner has not produced before this Court any material to show his right or independent title to the property.

8. In view of the foregoing, this writ petition is dismissed.
No Costs. Consequently, connected miscellaneous petition is closed.

[S.S.S.R., J.] [D.B.C., J.]
24.08.2023

Index : Yes / No
NCC : Yes / No
pm



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S.S.SUNDAR, J.

and

D.BHARATHA CHAKRAVARTHY, J.

pm

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