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W.P.(MD) No.22936 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.09.2023

CORAM:

**THE HONOURABLE MR.JUSTICE S.S.SUNDAR
and
THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY**

**W.P.(MD) No.22936 of 2023
and
W.M.P.(MD) No.19147 of 2023**

Musafarammal

... Petitioner

-vs-

1.The District Forest Officer
District Forest Office
Ramanathapuram
Ramanathapuram District

2.The Forest Range Officer
Sayalgudi Forest Range
Sayalgudi
Ramanathapuram District

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus to call for the records pertaining to the impugned order passed by the second respondent dated 04.09.2023 and



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quash the same and consequently direct the respondents not to disturb the possession of the petitioner and the family members of the house in Survey No.582, Door No.3/54, with an extent of 384 sq.ft., situates in Oppilan Village, Kadaladi Taluk, Ramanathapuram District.

For Petitioner : Mr.P.Gunasekaran

For Respondents : Mr.J.K.Jayaseelan
Government Advocate

ORDER

[Order of the Court was made by S.S.SUNDAR, J.]

Mr.J.K.Jayaseelan, learned Government Advocate, takes notice for the respondents.

2. With the consent of both sides, this writ petition is taken up for final hearing at the admission stage itself.

3. This writ petition is filed for issuance of a writ of certiorarified mandamus to call for the records pertaining to the order, dated 04.09.2023, passed by the second respondent, quash the same and consequently to direct



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the respondents not to disturb the possession of the petitioner and her family members in respect of the house bearing Door No.3/54, in Survey No.582 of Oppilan Village, Kadaladi Taluk, Ramanathapuram District, measuring an extent of 384 sq.ft.

4. The impugned order is passed under Section 68-A of the Tamil Nadu Forest Act, 1882, for eviction of encroachers, who are in unauthorized occupation of the forest land. The statutory provision only requires a show-cause notice. The impugned order is nothing more than a show-cause notice.

5. The petitioner states that her mother-in-law had purchased the subject property under a sale deed dated 30.06.1993 and had been in possession of the same by putting up a construction thereon. It is also stated that the petitioner is paying property tax and has obtained electricity service connection for the premises. Referring to the building plan approval granted by the local body, the petitioner states that her mother-in-law was the absolute owner of the subject property. However, there is no revenue record to show her title to the property. The petitioner's mother-in-law died in the year 2022. She earlier filed a suit in O.S.No.8 of 1998, on the file of the



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District Munsif-cum-Judicial Magistrate Court, Mudukulathur and obtained an order of interim injunction in I.A.No.90 of 1998 during the pendency of the said suit.

6. The suit filed in the year 1998 cannot survive now in view of the death of the petitioner's mother-in-law. Hence, it is open to the petitioner or any other legal heirs to take steps to restore and prosecute the suit, as there is abatement of the suit. When a suit is filed by the original owner of the property, after her death, her legal heirs cannot file a writ petition for the identical relief, especially when proceedings are initiated by the authority concerned for removal of encroachments. Therefore, it is open to the petitioner to take steps to implead herself or to bring on record the legal heirs in the suit filed by the petitioner's mother-in-law.

7. At this juncture, learned counsel for the petitioner states that the petitioner is not aware of the further proceedings, if any.

8. In view of the above submission of the learned counsel for the petitioner, this Court is inclined to grant three months time from today to the



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petitioner to file necessary application to restore and prosecute the suit filed by her mother-in-law or to take necessary steps to implead the legal heirs of her mother-in-law, in case the suit itself is dismissed as abated or for non-prosecution. The respondents are directed to keep the proceedings in abeyance only for three months from today.

9. Accordingly, this writ petition is closed. No costs.
Consequently, connected miscellaneous petition is closed.

[S.S.S.R., J.]

[D.B.C., J.]

21.09.2023

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

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To:

- 1.The District Forest Officer,
District Forest Office,
Ramanathapuram,
Ramanathapuram District.
- 2.The Forest Range Officer,
Sayalgudi Forest Range,
Sayalgudi, Ramanathapuram District.



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