

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25/06/2004

CORAM

THE HONOURABLE MR. JUSTICE A.K. RAJAN

W.P.No. 15375 of 1997

K.Thambi Durai .. Petitioner

-Vs-

1. The Tahsildar
Thirukkalukundram
Chengalpattu District.

2. The Divisional Excise Officer
Chengalpattu Taluk Office
Chengalpattu.

3. The Asst. Comissioner
Excise Office
Kancheepuram.

4. S.Shanmugam
President
Agricultural Co-operative Bank
Thirukkalukundram
Chengalpattu District. .. Respondents

!For Petitioner .. Mr. V.P.Venkat

^For R.1 & R.4 .. Mr. R.Premnath

Writ petition filed under Article 226 of the Constitution of
India praying for issuance of a Writ of Mandamus as stated therein.

:O R D E R

The prayer in the writ petition is to issue a Writ of Mandamus
forbearing the respondents from interfering with the peaceful possession and
enjoyment of the petitioner's bunk situated at Kavarai Street,
Thirukkalukundram Town Panchayat, Chengalpattu District.

2. For the prayer asked for, only a civil suit can lie and
not a writ petition. Further, the petitioner has no legal right to continue

in possession of this particular area.

3. The learned counsel for the petitioner submits that the petitioner is paying Rs.2/- everyday for Panchayat for being in occupation. Further, electricity supply had also given to him by Electricity Board and therefore he has a right to continue in possession. The learned counsel further challenges the jurisdiction of the first respondent to evict the petitioner.

4. The first respondent is the Tahsildar; the property is a Government property; and therefore, the first respondent has got not only the right but also a duty to evict the trespasser. Even assuming that the Village Administrative Officer authorised or permitted the petitioner to occupy a particular area to put up a hut, it does not give him any right because the Village Administrative Officer has no right whatsoever either to lease or authorise any person to occupy any Government land. The Government alone has got a right to issue licence to occupy. The petitioner has come to Court only on the ground that the first respondent is trying to evict him. Inasmuch as the petitioner is an encroacher on the Government land, no notice by the Tahsildar for evicting him is required. The Tahsildar has every right to evict the person and therefore the petitioner cannot have any objection or grievance, if the Tahsildar evicts him. The prayer cannot be granted. Hence the petition is dismissed.

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To

1. The Tahsildar
Thirukkalukundram
Chengalpattu District.

2. The Divisional Excise Officer
Chengalpattu Taluk Office, Chengalpattu.

3. The Asst. Commissioner
Excise Office, Kancheepuram.

4. S.Shanmugam
President, Agricultural Co-operative Bank
Thirukkalukundram, Chengalpattu District.

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