

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).16299-16300/2004

(From the judgement and order dated 18/11/2003 in WA No.3460/2003 &
WAMP No.5569/2003 of the HIGH COURT OF MADRAS)

C. KUCHALAKUMARI

Petitioner(s)

VERSUS

STATE OF TAMIL NADU & ORS.

Respondent(s)

(With appln(s) for c/delay in filing SLP and c/delay in filing
counter affidavit and with prayer for interim relief and office report)

Date: 22/11/2006 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.B. SINHA

HON'BLE MR. JUSTICE MARKANDEY KATJU

For Petitioner(s)

Ms. Pooja Dhar,Adv.

Mr. Prashant Kumar,Adv.

For Respondent(s)

Mrs. K. Sharda Devi,Adv.

UPON hearing counsel the Court made the following

O R D E R

Delay condoned.

The petitioner claims himself to be in possession of the land in question which had been given on lease in favour of respondent No.5. Questioning the Government order, a writ petition was filed by the petitioner herein. The learned Single Judge of the High Court by order dated 21.8.2003 dismissed the writ petition stating:

"In view of the above submissions of the learned counsel for the fifth respondent, except to permit the petitioner to work out his right in the said civil suit O.S. No.161/2003, no further orders are required in this writ petition and therefore, the same is dismissed. No costs. Consequently, W.P.M.P. Nos.18690 and 18691 of 2003 are also dismissed."

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In the writ appeal preferred thereagainst by the petitioner the Division Bench of the High Court held:

"That apart, the fifth respondent is a handicapped person and he was having a shop, which was taken away during road widening work, and as such on the request of

the Commissioner for rehabilitation of handicapped, the present place has been allotted on payment basis and by way of lease. In the circumstances, we concur with the order passed by the learned Single Judge and dismiss the writ appeal. However, we make it clear that should the appellant file an application seeking assignment of some other land and prayer that she is entitled to the same in accordance with the rules, the authority concerned shall consider the same sympathetically. No costs. Consequently, W.A.M.P. Is also dismissed."

Learned counsel appearing on behalf of the petitioner very fairly states that a civil suit has been filed by the petitioner in the Court of District Munsif, Ambattur, Tamil Nadu, being O.A. No.161/2003 and although a temporary order of injunction was obtained in the said suit, the same has since been vacated.

As the Learned Single Judge has already directed that the rights of the parties may be worked out in the pending civil suit, in our opinion, the Division of the High Court was correct in not interfering in the matter. However, as is evident from the order passed by both the learned Single as also the Division of the High Court that the contentions of the parties have not been gone into therein, indisputably, the same shall remain open in the civil suit.

The special leave petition is dismissed with the aforesaid

observations and directions.

(A.S. BISHT)

BHARDWAJ)

COURT MASTER

(PUSHAP LATA

COURT MASTER