

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.04.2015

CORAM

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN

W.P. No. 11231 of 2015

&

M.P.No. 1 of 2015

S. Mani ..Petitioner

Vs.

1. The District Collector,
Tiruppur, Tiruppur District.

2. The Tahsildar,
Tiruppur - South Taluk,
Tiruppur, Tiruppur District.

3. The Commissioner,
Tiruppur City Municipal Corporation,
Tiruppur, Tiruppur District.

4. The Sub-Inspector of Survey,
Tiruppur City Municipal Corporation,
Tiruppur South, Tiruppur District.

5. C. Narayanasami

6. C. Velliyangiri

..Respondents

Prayer: Petition under Article 226 of the Constitution of India praying for issue of a Writ of Certiorari to call for the entire records of the 4th respondent in Na.Ka.No. 1159.2015.T.T./15/01809 dated 31.03.2015 and quash the same as arbitrary, illegal and without jurisdiction.

For Petitioner :: Mr.V.P. Sengottuvel

For Respondents :: Mr.RM.Muthukumar,
Govt. Advocate for
R1 & R2
Ms.P. Shanthi for
R3 & R4

O R D E R

By consent of both parties, the main writ petition itself is taken up for final disposal.

2. The petitioner claims that he purchased a part of the lands comprised in S.Nos. 234/5 & 234/6, to an extent of 2 acres, out of 4 acres, from the legal heirs of Tvl. K. Nachimuthu and M.Palanisamy, V. Gandiraj, S.Ulaganayagi, through registered sale deeds dated 15.07.2002 bearing Document Nos. 3086 & 3087 of 2002 on the file Sub-Registrar, Tiruppur and when the rival claimants, namely, C. Deivasigamani and C. Chandrasekaran attempted to disturb his possession and enjoyment, he approached this Court to direct the 1st respondent herein as well as the Inspector of Police, Tiruppur South Police Station to give protection. The petitioner would further submit that subsequent to this, the revenue records were also mutated in his favour and he has also been issued with Joint Patta bearing No. 4176 and that he, along with other land owners, namely, N. Palanisamy and others, is in absolute possession and enjoyment of the property in question. The grievance expressed by the petitioner is that respondents 5 and 6, who have no right, whatsoever, in respect of the lands in question, made a representation to the 1st respondent to measure the property belonging to the petitioner and the 4th respondent, by proceedings dated 11.03.2015, issued a notice to the petitioner informing him about the inspection and enquiry to be conducted on 20.03.2015. The said proceedings were challenged by the petitioner in W.P. No. 7494 of 2015 and this Court, by order dated 17.03.2015, disposed of the writ petition directing the 4th respondent herein to issue fresh notice to the petitioner as well as to two other persons, namely, C. Narayanasami and C. Velliyangiri, (respondents 5 and 6 herein), by clearly mentioning as to what is the purpose of the enquiry and what are the properties for which documents have to be produced, etc., granting liberty to the 4th respondent herein to fix a fresh date of hearing. The 4th respondent herein, in pursuant to the said order, has issued the impugned notice dated 31.03.2015, calling upon the petitioner as well as the rival claimants, namely, C. Narayanasami and C. Velliyangiri, to be present at the spot on 17.04.2015 along with the relevant documents and challenging the legality of the said notice, the present writ petition has been filed.

3. Mr.V.P. Sengottuvel, learned counsel for the petitioner would vehemently contend that there were so many civil litigations between the rival claimants and predecessors in title and the purpose for which the rival claimants/respondents 5 and 6 herein are seeking to measure the property belonging to the petitioner, is to create further trouble. In the light of the facts and circumstances, according to the learned counsel, the impugned

proceedings are, per se, unsustainable and prays for quashment of the same.

4. Mr.RM. Muthukumar, learned Government Advocate accepts notice on behalf of respondents 1 and 2 and Ms. P. Shanthi, learned counsel accepts notice on behalf of respondents 3 and 4.

5. This Court has carefully considered the submissions made by the learned counsel for the petitioner and also perused the typed set of documents.

6. The petitioner, after receipt of the impugned notice dated 31.03.2015, has submitted his objection dated 01.04.2015. In terms of Section 7 of Tamil Nadu Survey and Boundaries Act, 1923, the Survey Officer shall conduct survey in the prescribed manner and in exercise of the said power only, the impugned notice has been issued.

7. Since the presence of the petitioner as well as respondents 5 and 6, along with documents, is mandatory under the impugned notice, the petitioner shall be present at the spot along with documents and the 4th respondent, while measuring the property, shall also take into consideration, the representation/objection submitted by the petitioner dated 01.04.2015 and carry out his duties in accordance with the provisions of the above said Act. The writ petition is disposed of accordingly. No costs. Connected M.P. is closed.

Sd/-
Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

nv

To

1. The District Collector,
Tiruppur, Tiruppur District.
2. The Tahsildar,
Tiruppur - South Taluk,
Tiruppur, Tiruppur District.

WEB COPY

3. The Commissioner,
Tiruppur City Municipal Corporation,
Tiruppur, Tiruppur District.

4. The Sub-Inspector of Survey,
Tiruppur City Municipal Corporation,
Tiruppur South, Tiruppur District.

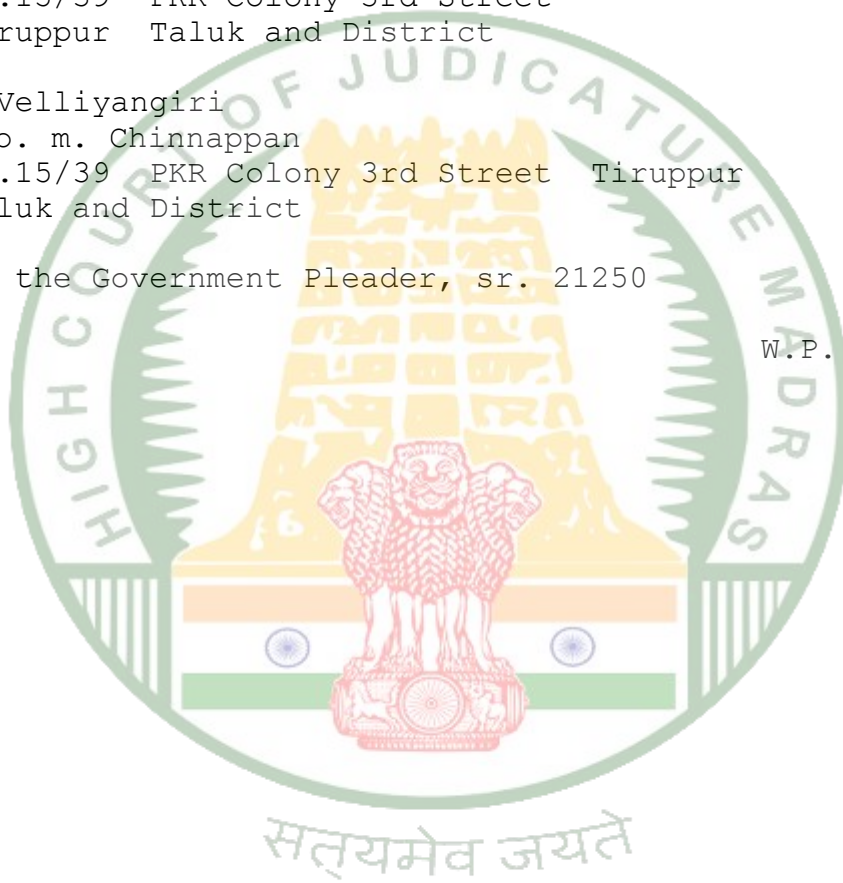
5 C.Narayanasami
S/o. M. Chinnappan
No.15/39 PKR Colony 3rd Street
Tiruppur Taluk and District

6 C.Velliyangiri
S/o. m. Chinnappan
No.15/39 PKR Colony 3rd Street Tiruppur
Taluk and District

1 cc to the Government Pleader, sr. 21250

W.P. No. 11231 of 2015
&
M.P.No. 1 of 2015

EV (CO)
kk 20/4



WEB COPY