

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.08.2015

CORAM

THE HON'BLE Mr. JUSTICE M.M.SUNDRESH

W.P.No. 31867 of 2014 & M.P.No.1 of 2014

S.K. Krishnan,
S/o. Kanthagounder,
Siruvangur Village,
Kallakurichi Taluk,
Villupuram District - 606 202.Petitioner

Vs.

- 1.The District Collector,
Villupuram District.
- 2.The District Revenue Officer,
Villupuram.
- 3.The Zonal Executive Magistrate,
Revenue Divisional Officer,
Kallakurichi.
4. Ramanathan
S/o. Venkatesan,
Siruvangur Village,
Kallakurichi Taluk,
Villupuram District - 606 202Respondents

This petition is filed under Article 226 of The Constitution of India praying to issue a writ of certiorari calling for the records of the proceedings of the 3rd respondent in A-3 4999-2014 dated 13.09.2014 and quash the same.

For Petitioner : M/s.N.Subramani
For Respondents 1 to 3 : Mr.A.Kumar,
Special Government Pleader
For Respondent No. 4 : Mr.R.Kumaravel.

ORDER

Challenging the proceedings initiated under Section 145 of the Cr.P.C., by which, both the parties were directed not to enter into the disputed property, the present writ petition has been filed.

2. Learned Counsel appearing for the petitioner submitted that the suit for permanent injunction has been filed in O.S.No. 338 of 2014, in which an interim injunction has been granted against the private respondent namely respondent No. 4 on 12.09.2014. He also submitted that the petitioner has not been heard while passing the order impugned.

3. The Learned counsel appearing for the respondent No. 4 submitted that the writ petition is not maintainable as only the revision would lie. He further submitted that the respondent No.4 has also filed a suit in O.S.No.249 of 2010 on the file of the Principal District Munsif, Kallakurichi and the matter is ready for trial.

4. The Learned Special Government Pleader submitted that the conditional assignment order was violated and therefore, it was cancelled by the Tahsildar, vide his Proceedings RTR.582/2007, dated 30.09.2008 and consequently, changes were carried out in the Taluk, Village accounts and that the land, as classified, is only Natham Poramboke land.

5. An order passed under Section 145 of the Cr.P.C. is only temporary order, meant to keep the law and order. Admittedly, both the petitioner and respondent No. 4 have filed suits. Suits filed in OS No.249 of 2010 and O.S.No.338 of 2014 are pending disposal before the very same Court, namely, Principal District Munsif, Kallakurichi, and already an interim injunction was obtained by the petitioner in I.A.No.2996 of 2014 in O.S.No.338 of 2014, dated 12.09.2014 and the same is said to be in force. The said order has not been taken into consideration by the respondent No. 3 while passing the order under challenge. Availability of revision will not take away the power of this Court under Article 226 of the Constitution of India.

6. Considering the above, the order impugned is set aside. The Learned Principal District Munsif, Kallakurichi, is directed to dispose of the suits filed in O.S.No.249 of 2010 and O.S.No.338 of 2014 within a period of six months from the date of receipt of a copy of this order. The Learned Principal District Munsif, Kallakurichi, is further directed to dispose of the cases without reference to the order under challenge. The respondent Nos. 1 to 3 are also at liberty to take appropriate action in pursuance to the proceeding of the Tahsildar, dated 30.09.2008, as the said proceeding is independent of both the pending suits.

7. The writ petition stands disposed of with the above direction.
No Costs. M.P.No.1 of 2014 is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

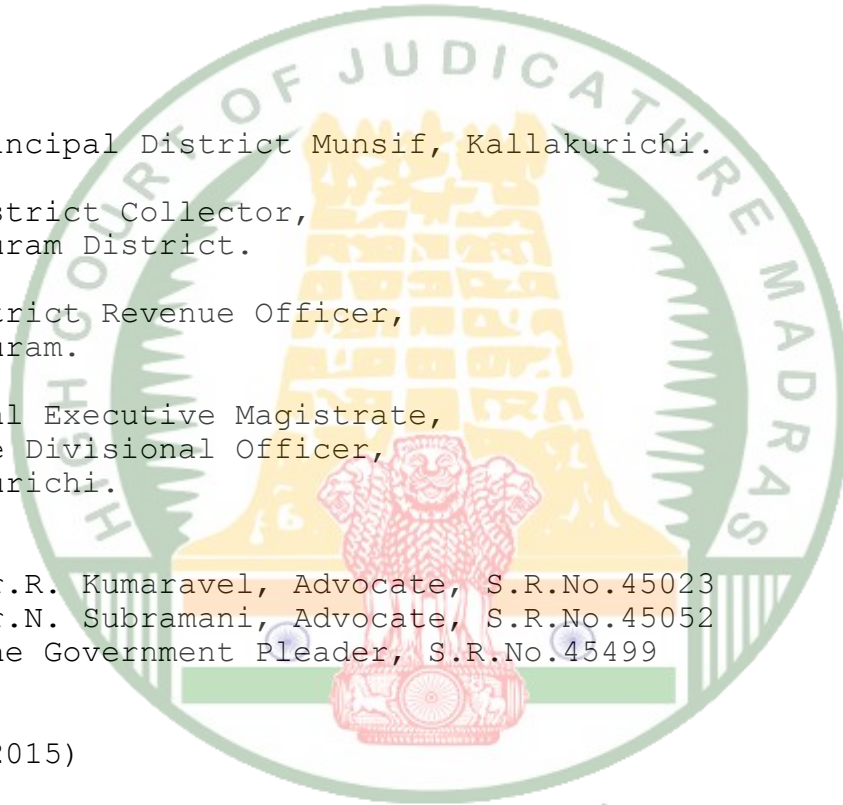
rms/rkm

To

1. The Principal District Munsif, Kallakurichi.
- 2.The District Collector,
Villupuram District.
- 3.The District Revenue Officer,
Villupuram.
- 4.The Zonal Executive Magistrate,
Revenue Divisional Officer,
Kallakurichi.

+1cc to Mr.R. Kumaravel, Advocate, S.R.No.45023
+1cc to Mr.N. Subramani, Advocate, S.R.No.45052
+1cc to the Government Pleader, S.R.No.45499

LRS (CO)
EU(14/09/2015)



सत्यमेव जयते

W.P.No. 31867 of 2014
& M.P.No.1 of 2014

WEB COPY