

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 11.8.2015

CORAM

THE HONOURABLE MR.JUSTICE M.M. SUNDRESH

W.P.No.1310/15 & M.P.Nos.1 & 2/15 and
W.P.No.1594/14 & M.P.Nos.1 & 3/15

Kandaswamy ... Petitioner in both WPs

- Vs -

- 1 The Tahsildar
Tiruporur
- 2 The Assistant Director
Office of the District Collector
Kancheepuram ... Respondents in both WPs
- 3 M/s.Shatapatri Estates Pvt Ltd
Rep. by its Authorised Signatory Mr.Ashish
Kirtania, No.E15, Third Floor, South
Extension-2, New Delhi-110 049.
... 3rd Respondent in W.P.No.1310/15
3. Saptaptri Estates Private Limited
Rep. By their power agent,
Ms.Yuga Builders,
Having office at No.A2, First Floor,
SAHANA Apartments, New No.6,
Old No.55, Kavignar Bharathidasan Road,
Alwarpet, Chennai-600 018.
... 3rd Respondent in W.P.No.1594/14

Prayer in W.P.No.1310/15 : Writ Petition filed under Article 226 of the Constitution of India praying to issue Writ of Certiorari Mandamus calling for the records of the first respondent in Na.Ka. Ni.A5/13 dated 16.12.2013 and quash the same and the consequently direct the second respondent to conduct fresh Survey of the entire 1395 Survey Number by granting suitable opportunity to all concerned to pass orders after in accordance with law.

Prayer in W.P.No.1594/14 : Writ Petition filed under Article 226 of the Constitution of India praying to issue Writ of Mandamus forbearing the 1st respondent from cancelling Patta No.2413 in

respect of petitioner lands located in Survey Number previously 1395/1 and presently 1395E/1B (Part) in Thaiyur Village within the Sub Registration District of Tiruporur and measuring 4.5 acres owned and possessed by the petitioner.

For Petitioner : Mr.G.Surya Narayanan
in W.P.No.1310/15

For Petitioner :
in W.P.No.1594/14 : Mr.V. Jayaprakash Narayanan

For R1 & R2 (both WPs) : Mr.S.Pattabiraman,
Govt.Advocate

For R3 (both Wps) : Mr.S.V.Jayaraman, Sr. counsel for
Mr. T.Dhanasekaran

COMMON ORDER

W.P.No.1594 of 2014 has been filed seeking a direction forbearing the first respondent from cancelling the patta given in favour of the petitioner. W.P.No.1310 of 2015 has been filed seeking to quash the order of respondent No.1 dated 16.12.2013 which is stated to be done unilaterally based upon the measurement done in the absence of the petitioner.

2. The grievance of the petitioner in both the cases is that more extent has been given to the respondent by unilateral action of the first respondent in W.P.No.1310 of 2015 without affording an opportunity to the petitioner by taking away the lands belonging to him.

3. The learned senior counsel appearing for the respondent submitted that a suit in O.S.No. 23 of 2014 has been filed on the file of Principal Sub Court, Chengalpet for declaration and consequent permanent injunction.

4. A perusal of the order impugned in W.P.No.1310 of 2015 does show that the petitioner has not been heard. However in view of the pendency of the suit, this Court is not willing to go into the same. It is straight that any decision to be made or made by the Revenue Official will be subject to the decision of the competent civil court.

5. As the matter is seized of by the jurisdictional civil court, a direction is issued to the said court not to take into consideration of the proceedings dated 16.12.2013 of the respondent No.1 in W.P.No.1310 of 2015 while deciding the suit. Since there is inter alia dispute regarding the measurement between the parties, the civil court can also explore the possibility of appointing the Advocate Commissioner under Order 26 Rule 10 of CPC to determine the issues.

6. Taking note of the pendency of the civil suit, a direction is also issued to the Principal Sub Court, Chengalpet to dispose of O.S.No.23 of 2014 within a period of 9 months from the date of receipt of a copy of this order. Based upon the Judgment and Decree of the said Court, the parties can approach the revenue officials seeking appropriate orders. Before proceeding further, the learned Sub Judge shall also decide the pending interlocutory application expeditiously, preferably within eight weeks from the date of receipt of a copy of this order on merits and in accordance with law.

7. Writ petitions are disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

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To

1 The Tahsildar
Tiruporur

2 The Assistant Director
Office of the District Collector
Kancheepuram

1 cc to Mr. T.Dhanasekaran, Advocate Sr.No.

2 cc to Mr.G.Surya Narayanan , Advocate Sr.No.42342, 42343

1 cc to Government Pleader.Sr.No.42041

W.P.No.1310/15 & M.P.Nos.1 & 2/15 and
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UG (CO)
PMK.19.8.2015

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