

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 10.02.2015

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

WP.No.8367/2012 & MP.No.1/2012

P.Jothi

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Petitioner

Versus

1.The District Collector,
Salem District.

2.The Tahsildar
Attur Taluk Office
Attur Town, Salem District.

3.K.V.Chandra Mohan
(R-3 Impleaded as per Order dated 10.02.2015 in MP.1/2014)

Respondents

Writ petition filed under Article 226 of the Constitution of India praying for a writ of certiorari calling for the records of the 2nd respondent in connection with the impugned notice by him in Na.Ka./3349/12/C1 dated 07.03.2012 and quash the same.

For Petitioner : Mr.S.Thirumavalavan
For R1&R2 : Mrs.P.Rajalakshmi, GA
For R3 : Mr.P.Jagadeesan

ORDER

Heard Mr.S.Thirumavalavan, learned counsel appearing for the petitioner ; Mrs.P.Rajalakshmi, learned Government Advocate appearing for the respondents 1 and 2 and Mr.P.Jagadeesan, learned counsel appearing for the impleaded respondent/3rd respondent herein and perused the materials available on record.

2.The petitioner has filed this writ petition challenging the impugned notice issued by the 2nd respondent calling upon the petitioner to attend the enquiry for measurement of the property.

3.It appears that there is dispute between the petitioner and the 3rd respondent [now impleaded] in respect of the said property and at the instance of the 3rd respondent, an application was given and to consider the said application of the 3rd respondent, the 2nd respondent issued notice to the petitioner. The only ground on which the

impugned notice has been challenged by contending that a civil suit is pending and when the civil suit is pending, the 2nd respondent should not interfere in the matter.

4.The 3rd respondent has filed an affidavit stating that the writ petitioner filed a suit in OS.No.565/2005 on the file of the Additional District Court, Fast Track Court No.1, Salem, for specific performance of an alleged agreement dated 17.03.2003. In the said suit, the 3rd respondent herein who was the sole defendant, filed a written statement and contested the same by stating that the Document dated 17.03.2003 was a fabricated document. It is stated that the suit has been dismissed for default on 07.01.2010 and till date, no steps have been taken to restore the said suit. Therefore, the impediment stated by the petitioner does not no longer survive and no ground is made out by the petitioner to challenge the impugned notice.

5.Accordingly, the writ petition is dismissed and the 2nd respondent is directed to issue fresh notice to the petitioner and the 3rd respondent herein and after affording an opportunity of personal hearing to the parties, the 3rd respondent shall proceed in accordance with law. No costs. Consequently, the connected miscellaneous petition is also dismissed.

Sd/-
Asst.Registrar

/True Copy/

Sub Asst. Registrar

AP

To

1.The District Collector,
Salem District.

2.The Tahsildar
Attur Taluk Office
Attur Town, Salem District.

+1 CC to Government Pleader, SR.No.7280
+1 CC to Mr.P.Jagadeesan, Advocate Sr 7060
+1 CC to Mr.S.Thirumavalavan, Advocate Sr 7024

WP.No.8367/2012

PA(CO)
PKS
23/02/2015