

uIN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 10.02.2015

CORAM

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM

W.P. Nos.2650 & 3934 of 2014 &
connected MPs

S.Ragunathan

... Petitioner in both W.Ps.

Vs.

1.The Executive Officer
Tirukoilur Town Panchayat
Tirukoilur.

... R1 in both W.Ps

2.The Sub Registrar
Sub Registrar's Office
Tirukoilur, Villupuram District.

... R2 in W.P.3934 of 2014

3.The R.Radhakrishnan

... R2 in W.P.2650 of 2014
... R3 in W.P.3934 of 2014

(R2 impleaded as per order dt 09.07.2014, in
M.P.No.2 of 2014 in W.P.2650/2014)

(R3 impleaded as per order dt 10.02.2015, in
M.P.No.2 of 2014 in W.P.3934/2014)

PRAYER in W.P.2650/2014: Petition filed Under Article 226 of the Constitution of India praying to issue Writ of certiorari to call for the records of the respondent in Na.Ka.No.475/2013 A1 dated 3.1.2014 and quash the same.

PRAYER in W.P.3934/2014: Petition filed Under Article 226 of the Constitution of India praying to issue Writ of certiorari to call for the records of the first respondent in respect of his two proceedings in Na.Ka.No.475/2013 A1 dated 28.1.2014 and quash the same.

For Petitioner
in both petitioners : Mr.N.Suresh

For Respondents : Mr.V.Jaya Prakash Narayanan
R1-WP 2650 & Special Government Pleader
R1&R2-WP3934/14)

(R2 & R3 in : Mr.C.Jagadish
Wps 2650 & 3934/2014)

C O M M O N O R D E R

By consent of the learned counsel on either side, the writ petitions are taken up for final disposal.

2.Heard Mr.N.Suresh, learned Counsel appearing for the petitioner, Mr.V.Jaya Prakash Narayanan, learned Special Government Pleader appearing for the official respondents and Mr.C.Jagadish , learned counsel appearing for the contesting respondent in both Writ Petitions.

3.The petitioner is one and the same in both the writ petitions. In W.P.No.2650 of 2014, the petitioner has challenged the proceedings dated 3.01.2014 and in W.P.No.3934 of 2014, the petitioner has challenged the proceedings dated 28.1.2014. The dispute in both these writ petitions pertain to a lay out which was approved by the respondent Town Panchayat.

4.The petitioner was the owner of the land and a lay out has been promoted by him, wherein the property was divided into nine plots. The allegation against the petitioner is that the petitioner sold 85 sq.ft of land situated at the extreme end of the plot earmarked as Road adjacent to Plot No.1, making it difficult to ingress and egress to the plots adjoining Survey No.71/1A. It appears that the third respondent in W.P.No.3934 of 2014, who is the owner of the survey No.71/1A has given an objection, pursuant to which a notice is said to have been given to the petitioner on 6.12.2013, directing him to appear on 13.12.2013, with all relevant records. According to the Executive Officer of the Town Panchayat the petitioner did not appear and therefore an order has been passed cancelling the 'no objection certificate' issued by the Town Panchayat and also directed the Sub-Registrar of Registration to cancel the sale deeds which were executed by the petitioner in favour of the third parties which were

registered in 2007. In the other impugned order dated 28.1.2014, it is stated that the petitioner should execute a gift deed in favour of the Town Panchayat in respect of 85 sq.ft. of land within seven days.

5.The manner in which the Executive Officer of the Town Panchayat has proceeded would show that he wanted to take a hasty decision in the matter. Admittedly, the land in question which is now the subject matter of dispute has been sold to a third party as early as on 16.2.2007 by a registered document No.554/2007. The said document cannot be cancelled by the Executive Officer of the Town Panchayat. However, without hearing the petitioner and without affording sufficient opportunity, in a hasty manner, the Executive Officer has passed the impugned orders. This Court can presume that the action has been taken at the instigation of certain third parties.

6.On the other hand the contesting respondent would allege that the petitioner was the employee of the Town Panchayat and therefore he has created the documents in such a manner that the portion of the land was said to have been retained by him.

7.In any event, those issues cannot be resolved in the manner done by the Executive Officer and that requires a full fledged hearing. That apart, a Suit is also pending in O.S.No.423 of 2013, in the file of the Additional Subordinate Court, Villupuram, wherein the petitioner is the plaintiff and the contesting respondent Ramakrishnan and his brother R.Chandrasekaran are defendants and in the Suit, the petitioner has sought for declaration of title and for permanent injunction. Therefore, that aspect also has to be taken note of by the Executive Officer more particularly when the said 85 sq.ft of land has already been sold in favour of the third party way back in 2007.

8.Accordingly, the impugned orders cannot be implemented and cannot be given effect to, since it has been passed in total violation of principles of natural justice. However, this Court is not inclined to set aside the impugned orders at this juncture and there will be a direction to the petitioner to treat both the impugned orders as show cause notices and the petitioner is directed to submit his explanation to the same and also submit all documents in support of his claim. On receipt of the explanation, the Executive Officer, Tirukoilur Town Panchayat is directed to issue notice to the persons in whose favour the land has been registered in Document No.554/2007 and also to R.Radhakrishnan and hear all the parties in person and thereafter pass a reasoned order on merits and in accordance with law. However, in the meanwhile, if any order has been passed by the Civil Court, then the matter shall be kept in

abeyance by the respondent.

The Writ Petitions are disposed of accordingly. No costs. Consequently, connected Miscellaneous petitions are closed.

Sd/-
Asst. Registrar

/true copy/

Sub Asst. Registrar.

Rpa

To

1. The Executive Officer
Tirukoilur Town Panchayat
Tirukoilur.
2. The Sub Registrar
Sub Registrar's Office
Tirukoilur, Villupuram District.

+1cc to Mr.N.Suresh , Advocate,S.R.No.7365
+1cc to Mr.C.Jagadish , Advocate,S.R.No.7209
+1cc to Mr.V.Jaya Prakash Narayanan, Advocate,S.R.No.7165

W.P. Nos.2650 &
3934 of 2014

PA (CO)
CA(27.02.2015)

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