

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 20.08.2015

CORAM

THE HONOURABLE MR. JUSTICE N.KIRUBAKARAN

W.P.No.25929 OF 2015

&

M.P.No.1 of 2015

1 Indirani
2 Selvi
3 C. Dhinakaran

[PETITIONERS]

Vs

1 The Chairman / Member Secretary
Chennai Metropolitan Development Authority
Thalamuthu Natarajan Building
No.1 Gandhi Irvin Road,
Egmore, Chennai-8.

2 The Commissioner
Chennai Municipality
Corporation - Pallavaram Division
Chennai

3 The Superintending Engineer
Tamil Nadu Electricity Board
Pallavaram, Kancheepuram District.

4 M. Abdul Wahab

[RESPONDENTS]

Writ petition is filed under Article 226 of the Constitution of India praying for a writ of mandamus to forbear first to third respondents from issuing any No Objection Letter or proving the Water Drainage and Electricity Service Connection to the Building is being constructed by 4th respondent Land situated Srinivasan Perumal Koil Street C. Pallavaram Village Alandur Firka Alandur Taluk Kancheepuram District Survey No.294 G.L.R.S. No.388/582 measuring 358 sq.ft.registered before Sub Registrar Pallavaram.

For Petitioner : Mr.I.Arockia Selvaraj

For Respondents : Mr.P.Tamilmani - R1
Mr.P.V.Selvakumar - R2
Mrs.M.E.Rani Selvam - R3
Addl.Govt. Pleader

O R D E R

With the consent of the learned counsel appearing on either side, the Writ Petition is taken up for final disposal at the admission stage itself.

2.The petitioners have filed a Suit in O.S.No.67 of 2014, seeking for a declaration that the sale deed executed by defendants 1 and 3 in favour of the fourth defendant therein on 08.10.1997 as void and for other reliefs.

3.The case of the petitioners is that the property belongs to their parents and they died intestate. After the demise of their parents, the petitioners along with the defendants 1 to 3 in the said Suit, who are the brother and sisters of the petitioners have become co-owners of the property comprised in Survey No.294, G.L.S.No.388/582, measuring to an extent of 357 sq.ft. situated at Old No.343/1, New No.30, Srinivasan Koil Street, C.Pallavaram Village, Alandur Firka, Alandur Taluk, Kancheepuram District. The further case of the petitioners is that without consent from the petitioners, their brother namely, Mr.Rajendran and two sisters namely, Yasodha and Gowri, sold the property in favour of one S.Dilipkumar, along with S.Abdul Wahab, by virtue of the sale deed dated 08.10.1997. Since the petitioners have filed a Suit for partition and declaration, they have come before this Court to forbear respondents 1 to 3 from issuing No Objection Certificate for providing Water Drainage and Electricity Service Connection to the Building, which is being constructed by fourth respondent in the aforesaid property.

4.Heard the learned counsel appearing for the petitioners extensively.

5.The learned counsel appearing for the petitioners would submit that when the Suit for partition filed by the petitioners is pending, the fourth respondent cannot make any construction or get any amenities. The said contention is liable to be rejected in limine. First of all, the brother and sisters of the petitioners sold the property during 1997. Though the petitioners have filed the Suit for partition, till date no preliminary decree is granted. Hence, the petitioners cannot prevent the fourth respondent from enjoying the property as he already became the owner of the property by virtue of the sale deed dated 08.10.1997. The suit filed by the petitioners is very comprehensive for partition as well as for declaration of the sale deed executed by the sisters and brother of the petitioners in favour of the fourth defendant on 08.10.1997. As long as the sale deed is valid and the fourth respondent is in possession of the property, he is entitled to enjoy the property as owner. The petitioners cannot have any right to prevent the fourth respondent

from enjoying property and getting all amenities from the authorities. The petitioners having filed a suit failed to get any interim relief before the Civil Court, and he cannot approach this Court, by way of this Writ Petition, which is nothing but an abuse of process of law.

6. Therefore, the Writ Petition fails and the same is dismissed. No costs. Consequently, connected Miscellaneous Petition stands closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

rpa

To

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Pallavaram,
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WEB COPY

1 CC to Mr.I.Arockia Selvaraj, Advocate SR.No. 44354

1 CC to Mr.P.Gunaraj, Advocate SR.No. 44249

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GGK (CO)
PSI (30.09.2015)