

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.08.2015

CORAM

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

W.P.No.30729 of 2013
and
M.P.Nos.1 to 2 of 2013
and
WP.No.35183 of 2013
and
MP.No.1 of 2013

W.P.No.30729 of 2013

S.Sampath Kumar

.. Petitioner

Vs.

- 1.The Executive Magistrate and Tahsildar,
Kattumannarkiol,
Chidambaram,
Cuddalore District.
- 2.The Village Administration Officer,
Solatharam Village,
Kattumannarkoil Taluk,
Chidambaram,
Cuddalore District.

3.Andavar Selvam

... Respondents

WP.No.35183 of 2013

S.Sampath Kumar

.. Petitioner

Vs.

- 1.The Executive Magistrate and Tahsildar,
Kattumannarkiol,
Chidambaram,
Cuddalore District.
- 2.The Special Tahsildar(TL),
Chidambaram,
Cuddalore District.

3.The Village Administration Officer,
Solatharam Village,
Kattumannarkoil Taluk,
Chidambaram,
Cuddalore District.

4.Arulmigu Sri Natarajar Temple,
Chidambaram represented by its Executive Officer,
Sri Natarajar Temple,
Chidambaram.

5.Andavar Selvam

... Respondents

Prayer:

Petition filed under section 226 of the Constitution of India to
issue a Writ of Certiorarified Mandamus

(i)calling for the records of the first respondent pertaining to
the impugned order dated 10.10.2013 made in Mu.Mu.(A5)/10139/2013 by
the 1st respondent and quash the same and in furtherance thereof grant
an order directing the respondents 1 and 2 to adhere to the
provisions of law before passing any orders.(WP.No.30729of 2013).

(2) calling for the records of the first respondent pertaining
to the impugned order dated 09.12.2013 made in Mu.Mu.(A5)/11401/ 2013
by the 1st respondent and quash the same and in furtherance thereof
grant an order of mandamus directing the respondents 1 and 3 to
adhere to the provisions of law before passing any orders
(WP.No.35183 of 2013).

For Petitioner : Mr.V.Anand

For Respondents : Mr.P.Sanjay Gandhi for RR1 & 2
Additional Government Pleader

For R3 :P.R.Thiruneela Kandan

WP.No.35183 of 2013

For Petitioner : Mr.V.Anand

For Respondents : Mr.P.Sanjay Gandhi for RR1 to 4
Additional Government Pleader

For R5 :P.R.Thiruneela Kandan

COMMON O R D E R

The petitioner has filed the WP.No.30729 of 2013 seeking for issuance of a Writ of Certiorarified Mandamus calling for the records of the first respondent pertaining to the impugned order dated 10.10.2013 made in Mu.Mu.(A5)/10139/2013 by the 1st respondent and quash the same and direct the respondents 1 and 2 to adhere to the provisions of law before passing any orders.

2.The petitioner has filed the WP.No.35183 of 2013 seeking for issuance of a Writ of Certiorarified Mandamus calling for the records of the first respondent pertaining to the impugned order dated 9.12.2013 made in Mu.Mu.(A5)/11401/2013 by the 1st respondent and quash the same and issue a Mandamus, directing respondents 1 and 3 to adhere to the provisions of law before passing any orders.

3. Both the Writ Petitions have been filed by the petitioner challenging the proceedings initiated under Sections 133 and 145 of the Criminal Procedure Code dated 10.10.2013 and 09.12.2013 respectively.

4. On a perusal of the records, it is seen that both the petitioner and private respondent filed suits for permanent injunction, on the file of the District Munsif, Kattumannarkoil, Chidambaram, Cuddalore District in O.S.Nos.47 of 2014 and O.S.No.104 of 2014, which are pending disposal.

5. It is settled proposition of law that proceedings under Sections 133 and 145 of Cr.P.C. are not meant to decide the title between the parties. In other words the said proceedings are subject to the orders to be passed by the Civil Court, both interim or final orders. In proceedings dated 10.10.2013, it is clearly mentioned that the order would be in force for a period of two months. Therefore, the order was effective only till 09.12.2013. Moreover, the order has asked the parties to maintain only status quo. The question as to whether which one of the parties, the petitioner and the respondent No.3 in W.P.No.30729 of 2013 and respondent No.5 in W.P.No.35183 of 2013, who is under possession and under what basis, is a matter to be adjudicated before the Civil Court.

6.The question as to who is in possession cannot be decided through proceedings under Section 133 or 145 of the Code of Criminal Procedure. It is primarily the job of the civil court. Therefore, this Court directs the learned District Munisif, Kattumannarkoil, Chidambaram, Cuddalore District, to dispose of both O.S.Nos.47 of 2014 and O.S.No.104 of 2015 on their own merits and without being influenced by the observations made in this order.

In the result, the writ petitions are disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

-Sd/-

Assistant Registrar(cs-IV)

//True copy//

Sub Assistant Registrar

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To

- 1.The District Munsif Court,
Kattu mannar koil,
Chidambaram,
Cuddalore.
- 2.The Executive Magistrate and Tahsildar,
Kattumannarkiol,
Chidambaram,
Cuddalore District.
- 3.The Special Tahsildar(TL),
Chidambaram,
Cuddalore District.
- 4.The Village Administration Officer,
Solatharam Village,
Kattumannarkoil Taluk,
Chidambaram,
Cuddalore District.
- 5.The Executive Officer Arulmigu Sri Natarajar Temple,
Chidambaram.
Sri Natarajar Temple,
Chidambaram.

+1cc to Mr.P.R.Thiruneelakandan,Advocate(sr.43703)
+1 cc to Government pleader (sr.43830)

W.P.Nos.30729 & 35183 of 2013

VSN(co)
cp 04/09/2015