

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16/11/2015

C O R A M

THE HON'BLE Mr.JUSTICE T.S.SIVAGNANAM

W.P.No.35040 of 2015

a n d

M.P.No.1 of 2015

P.Govindaraj ... Petitioner

Vs

1. The Commissioner  
Ariyalur Municipality  
Ariyalur 621 704.

2. Dr.P.Elangovan ... Respondents

Prayer :-Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of certiorari to call for the records of the first respondent in Na.Ka.No.8610/F1/2015 dated 11/8/2015 relating to the property in SF No.555/45 Vellalar Street, Ariyalur Town, Ariyalur District and quash the same.

For petitioner ... Mr.S.Kamadevan

For respondents ... Mr.R.M.Muthukumar  
Additional Government Pleader  
for R.1

O R D E R  
सत्यमेव जयते

With the consent of the learned counsel for the parties, the writ petition is taken up for final disposal.

2. Heard Mr.S.Kamadevan, learned counsel appearing for the petitioner and Mr.R.M.Muthukumar, learned Additional Government Pleader for the first respondent.

3. This writ petition has been filed praying to call for the records of the first respondent in Na.Ka.No.8610/F1/2015 dated 11/8/2015 relating to the property in SF No.555/45 Vellalar Street, Ariyalur Town, Ariyalur District and quash the same.

4. The learned counsel appearing for the petitioner submits that there is a civil dispute between the petitioner and the second respondent. Hence the first respondent has no jurisdiction to adjudicate the question of title.

5. The second respondent herein had filed a writ petition being W.P.No.16727 of 2015, impleading the official respondents and not the petitioner herein. In the said writ petition, the prayer sought for is to direct the first respondent herein to consider the representation of the petitioner therein/second respondent herein dated 21<sup>st</sup> April 2015 and to give Police protection and consequently direct the respondents therein to remove the encroachment, as per the recommendation of the third respondent therein.

6. The said writ petition was disposed of, by an order dated 13<sup>th</sup> May 2015 and the operative portion is usefully extracted as follows:-

"5. In the result, considering the limited scope of the prayer, without going into the merits of the case, the third respondent is hereby directed to consider the representation of the petitioner dated 21/4/2015, after issuing notice to Govindaraju or any other affected persons and shall pass appropriate orders after hearing the parties concerned, on merits and in accordance with law, as expeditiously as possible, preferably within a period of six weeks from the date of receipt of a copy of this order. Accordingly, this writ petition is disposed of. No costs."

7. Pursuant to which impugned notice has been issued. Therefore, at the very threshold, the impugned notice cannot be set aside, since the first respondent has been directed to issue notice by this Court and after hearing the parties, take a decision. If according to the petitioner, there is no jurisdiction for the first respondent to go into the question of title, which obviously is a settled legal position, it is open to the petitioner to raise the same before the first respondent.

8. That apart, if any civil litigation is pending, the same should be brought to the notice of the first respondent. It is stated that though the enquiry was fixed on 19<sup>th</sup> October 2015, which is said to have been before the first respondent/Commissioner of Ariyalur Municipality, the same has been adjourned.

9. In the light of the above, the petitioner is directed to submit a written explanation to the impugned notice including the issue of jurisdiction and such other matters and submit the same before the first respondent. On receipt of the same, the first respondent shall consider the same and take a conscious decision on merits and in accordance with law.

10. With the above direction, this writ petition is disposed of. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-  
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

mvs.

To

1. The Commissioner  
Ariyalur Municipality  
Ariyalur 621 704.

+1cc to Mr.S. Kamadevan, Advocate, S.R.No.61879

VGI (CO)  
EU(23/11/2015)

W.P.No.35040 of 2015

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