

In the High Court of Judicature at Madras

Dated : 24.11.2015

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.37371 of 2015 and M.P.Nos.1 and 2 of 2015

K.Kannappan

...Petitioner

Vs

1.The Chief Secretary to Union
Territory of Puducherry,
Government of Puducherry,
Chief Secretariat, Puducherry.

2.The District Collector, Saram,
Puducherry.

3.The Tahsildar, Taluk Office,
Oulgaret, Puducherry.

4.Dela Victoire Celine

5.Syce Sinnappane Vedanayagame
Pradeep

...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for records of the third respondent in his proceedings in No.8000/DC/LG/FS/2015/569 dated 23.10.2015, and quash the same and thereby forbear the respondents from in any way interfering in the possession and enjoyment of petitioner's property in Revenue Village No.36, Reddiarpalayam Revenue Village, R.S.Nos.172 and 175 of an extent of 2,100 sq.ft. in Natesan Nagar, Oulgaret Commune, Puducherry.

For Petitioner : Mr.R.Rajavelavan

For Respondents 1 to 3 : Mr.A.Tamilvanan, GA

ORDER

Mr.A.Tamilvanan, learned Government Advocate accepts notice for the respondents 1 to 3. Heard the learned counsel for the petitioner. In view of the limited nature of the relief to be granted, the writ petition itself is taken up for final disposal without ordering notice to respondents 4 and 5.

2. The petitioner has filed the above writ petition challenging a notice issued by the third respondent dated 23.10.2015 and to forbear the respondents from interfering with the petitioner's possession in respect of the property in question. By the impugned notice, the petitioner was informed that the fifth respondent has filed a land grab petition before the District Collector, Puducherry alleging that the petitioner is trying to trespass into the property in Natesan Nagar belonging to the fourth respondent. Therefore, the petitioner has been summoned to appear in person or through an authorized agent along with relevant documents/court case details, if any, to substantiate his claim, on 3.11.2015 at 11 AM. The petitioner also gave a detailed representation to the third respondent on 12.11.2015, which has been acknowledged by the office of the third respondent. The petitioner would state that civil suits are pending between the parties in respect of the same property and in one of the suits ie. O.S.No.422 of 2013 on the file of the First Additional District Munsif Court, Puducherry, filed by the petitioner and four others, the fifth respondent is the second defendant. In that, the fifth respondent also filed a written statement on 7.8.2013 and it is a suit for permanent injunction.

3. That apart, the fourth respondent has filed a suit in O.S.No.57 of 2013 on the file of the Principal Subordinate Court, Puducherry on 25.3.2013 wherein the fourth respondent represented by her power agent namely the fifth respondent herein has sought for a declaration declaring that she is the absolute owner of the subject matter of the property in dispute and for a permanent injunction. In view of the above, the petitioner states that the third respondent has no jurisdiction to enquire into the alleged complaint.

4. Prima facie, the petitioner is justified in taking such a stand, since both the petitioner as well as respondents 4 and 5 are before the civil court and therefore, the Revenue Authorities should desist from investigating into the title to the property. Curiously enough, the impugned notice was issued asking the petitioner to attend an enquiry as well as to furnish details with regard to court cases. This Court fails to understand as to how the Tahsildar could examine the title to the property, when the parties are at loggerheads before the civil court.

5. Therefore, the writ petition is disposed of with a direction to the third respondent to consider the petitioner's representation dated 12.11.2015, examine full facts and after issuing notice to the petitioner as well as respondents 4 and 5, pass appropriate orders, in the light of the observations made by this Court in this order. No costs. Consequently, the above MPs are closed.

RS

Sd/-
Assistant Register (Judicial)

/True Copy/

Sub-Assistant Register

To

1. The Chief Secretary
to Union Territory of Puducherry,
Government of Puducherry,
Chief Secretariat, Puducherry.
2. The District Collector office
& Collectorate, Saram, Puducherry.
3. The Tahsildar, Taluk Office,
Oulgaret, Puducherry.

+1CC Government pleader for Pondicherry in SR.NO. 63940

WP.No.37371 of 2015 &
MP.Nos.1 and 2 of 2015

SVI (CO)

SD 11/12/2015

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