

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.09.2015

CORAM:

THE HON'BLE MR.JUSTICE M.JAICHANDREN

WRIT PETITION NO.26635 OF 2012

P.K.Ajith

.. Petitioner

vs.

1.The Inspector of Police,
Thirumullaivoyal, Chennai.

2.Arulmigu Kodiyidainayagi Undanurai
Arulmigu Masilamaniswarar Thirukoil,
Thirumullaivoyal, Chennai, rep. by its
Executive Officer

3.Dheenadayalan

.. Respondents

Prayer: Petition is filed under Article 226 of the Constitution of India praying to issue a writ of mandamus, directing respondents 1 and 2 from in any manner disturbing the petitioner's peaceful possession and enjoyment of the property in grama natham Survey No.269/2, situated at No.71, New No.23, East Madaveedi, Thirumullaivoyal, Chennai-62, except by following the due process of law.

For petitioner : Mr.L.Chandrakumar

For respondents : Mr.P.Chinnadurai, G.A. for R.1
M/s.A.S.Kailasam Associates for R2

सत्यमेव जयते
O R D E R

Heard the learned counsels appearing on behalf of the parties concerned.

2. This Writ Petition has been filed by the petitioner praying that this Court may be pleased to issue a Writ of Mandamus, to direct respondents 1 and 2 not to disturb the petitioner's peaceful possession and enjoyment of the property in Grama Natham Survey No.269/2, situated at No.71, New No.23, East Madaveedi, Thirumullaivoyal, Chennai-62, except by following the due process of law.

3. According to the petitioner, he had purchased the property in question, along with his wife, from one G.Srinivasan, vide document No.5975/2007. The petitioner has been put in possession of the property, pursuant to the registration of the sale deed, in his favour and in favour of his wife. Thereafter, the 2nd respondent-Temple had filed a Suit before the Sub Court, Poonamallee, in O.S.No.152 of 2005, praying for a declaration, to declare the settlement deed executed by one Govindasamy, in respect of the property in question, in favour of his son G.Srinivasan, the predecessor in title, as null and void.

4. The Sub Court, Poonamallee, had passed a judgment and decree, in O.S.No.152 of 2005, holding that the property in question belongs to the 2nd respondent-Temple and it had directed the Joint Commissioner, Hindu Religious and Charitable Endowments Department, to take appropriate steps to evict the petitioner, treating him as an encroacher. Thereafter, an Appeal Suit, in A.S.No.17 of 2011, which had been filed by G.Srinivasan, against the judgment and decree of the trial court, had been allowed, setting aside the findings of the trial court. No further appeal had been filed against the judgment and decree, dated 21.2.2012, passed in A.S.No.17 of 2011. While so, the 3rd respondent, claiming himself to be the Trustee of the 2nd respondent-Temple, is attempting to interfere with the petitioner's peaceful possession and enjoyment of the property in question. Hence, the present Writ Petition.

5. At this stage of the hearing of the Writ Petition, the learned counsels appearing on behalf of respondents 1 and 2 had submitted that the petitioner had filed a Civil Suit, in O.S.No.346 of 2008, on the file of the District Munsif Court, Ambattur, praying for a permanent injunction restraining the 3rd respondent, from interfering with his peaceful possession and enjoyment of the property in question. An order of interim injunction had been granted, in I.A.No.1134 of 2008, in favour of the petitioner. In such circumstances, it is for the petitioner to pursue his remedies before the District Munsif Court, Ambattur, in O.S.No.346 of 2008. It is also stated that the petitioner cannot maintain the present Writ Petition before this Court, with regard to the disputed facts, which had arisen in respect of the property in question.

6. In view of the submissions made by the learned counsels appearing on behalf of the parties concerned, and on a perusal of the records available, it is clear that disputed questions had been raised by the parties concerned, with regard to the status of the property in question and with regard to the power of the 3rd respondent, who claims to be Trustee of the 2nd respondent-Temple. In such circumstances, it is not for this Court to go into such disputed facts in the Writ Petition filed before this Court, under Article 226 of the Constitution of India. It is also noted that the petitioner has filed a Suit before the District Munsif Court, Ambattur, in

O.S.No.346/2008, claiming certain rights. In these circumstances, the present Writ Petition filed by the petitioner is not maintainable. Hence, the Writ Petition stands dismissed. However, it goes without saying that it would be open to the petitioner to pursue his remedies, if any, before the appropriate forum, in the manner known to law. No costs. M.P.No.1 of 2012 is closed.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

To

1.The Inspector of Police,
Thirumullaivoyal, Chennai.

2.Arulmigu Kodiyidainayagi Undanurai
Arulmigu Masilamaniswarar Thirukoil,
Thirumullaivoyal, Chennai, rep. by its
Executive Officer

+1cc to Mr.L.Chandrakumar, Advocate sr.46942

+1cc to Mr.AS.Kailasam & Associates SR.47058

+1cc to Government pleader Sr.47303

WP. 26635 of 2012

lrs[co]
srg 30.09.2015

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