

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.04.2016

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THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.15171 of 2016
and
WMP.No.13207 of 2016

P.Venkateson

... Petitioner

vs.

1.Saroja

2.The Deputy Commissioner of Police,
N.H. Road, Avadi.

3.The Inspector of Police,
T-7, Tank Factory Police Station,
Avadi, Chennai-600 054.

... Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of mandamus, directing the respondents 2 and 3 not to disturb the possession of the petitioner in S.No.434/6c of Morai Village till the decision of the suit in O.S.No.348/2015, pending before the District Munsif Court, Ambattur and the appeal pending before the Revenue Divisional Officer.

For Petitioner : M/s.R.Meenakshi

For R2 & R3 : Mr.V.Jayaprakash Narayanan, SGP

ORDER

The petitioner has come up with the present writ petition for a mandamus, directing respondents 2 and 3 not to disturb his possession in S.No.434/6c of Morai Village till the disposal of the suit in O.S.No.348 of 2015, pending on the file of the District Munsif Court, Ambattur and the disposal of the appeal by the Revenue Divisional Officer.

2. The case of the petitioner, as averred in the writ petition is as follows:

2.1 The petitioner purchased the property measuring to an extent of 30 cents, out of 22.00 Ares, situated in Survey No.434/6c in Morai-I Village, Ambattur Taluk from one Rangappa Naidu and Subburayalu Naidu through an unregistered sale deed

(Vaicha Kirayam) in the year 1978 and he has been in continuous possession and enjoyment of the said property for the past 37 years. He has also obtained patta in respect of the said property in Patta No.618 through Updated Revenue Record Scheme. Thereafter, he has built a house and obtained electricity service connection for the same and has been regularly paying the property tax from 1978 onwards.

2.2 While so, the petitioner received a notice calling upon him to appear for enquiry on 16.07.2015 along with necessary documents stating that the 1st respondent herein has made an application before the Tahsildar, Ambattur to remove the petitioner's name from Patta No.618 in respect of the property in question. Accordingly, he appeared before the Tahsildar on the said date, however, the enquiry was postponed without fixing any further date.

2.3 In the mean while, the petitioner filed a suit in O.S.No.348 of 2015 before the District Munsif Court, Ambattur against the first respondent and the Tahsildar, Ambattur for permanent injunction restraining the defendants therein from interfering with his peaceful possession and enjoyment of the property in question and from deleting the name of the petitioner from patta No.618, Chitta and Adangal in respect of the said property and the suit is pending.

2.4 Pending the suit, the Tahsildar, Ambattur, by his proceedings in Na.Ka.No.2412/2015/C3 dated 19.08.2015, has deleted the petitioner's name in patta No.618. Aggrieved against the same, the petitioner preferred an appeal before the Revenue Divisional Officer, Ambattur on 17.09.2015 and the same is pending.

2.5 Subsequent to the order dated 19.08.2015, the 1st respondent herein filed a Writ Petition in W.P.No.35888 of 2015 before this Court seeking a direction to respondents 1 and 2 therein to give police protection to the Taluk Surveyor, Ambattur Taluk and herself to measure and to fence the land comprised in S.No.434/6c, Morai Village measuring to an extent of 31 cents, which is in possession and enjoyment of the petitioner herein. By order dated 5.4.2016, the said writ petition was allowed by directing respondents 1 and 2 therein, who are the respondents 2 and 3 herein, to give protection for measuring and fencing the property in question. Pursuant to the same, the first respondent has pressurized the respondents 2 and 3 to comply with the said order. Therefore, the petitioner has filed the present writ petition for the above stated relief.

3. Learned counsel for the petitioner submitted that from the date of purchase, the petitioner has been in possession and enjoyment of the property in question and he has duly

obtained patta, Chitta, Adangal and electricity service connection in respect of the same. However, the first respondent made several attempts to disturb the petitioner's peaceful possession and enjoyment of the property.

4. Learned Special Government Pleader, who took notice for the respondents 2 and 3 submitted that the petitioner has already filed a suit in O.S.No.348 of 2015 for permanent injunction and he has also filed an appeal against the proceedings of the Tahsildar, Ambattur deleting his name from patta No.618 pertaining to the property in question and both the proceedings are pending. Having failed to obtain an interim order from the court concerned, he approached this Court with the present writ petition for the very same relief. Therefore, the present writ petition is liable to be dismissed.

5. Heard both sides and perused the documents placed before this Court.

6. Admittedly, the petitioner has filed the suit in O.S.No.348/2015 before the District Munsif Court, Ambattur against the first respondent and the Tahsildar, Ambattur for permanent injunction restraining them from disturbing or interfering with his peaceful possession and enjoyment of the property and also restraining the second respondent therein from deleting the name of the petitioner in Patta No.618, chitta and adangal pertaining to the property in question. Pending the suit, the Tahsildar, Ambattur by his proceedings dated 19.08.2015 has deleted the name of the petitioner from Patta No.618. Challenging the same, the petitioner has preferred an appeal dated 17.09.2015 before the Revenue Divisional Officer, Ambattur. Pending the same, he has come forward with the present writ petition for the very same relief. As rightly pointed out by the learned Special Government Pleader appearing for respondents 2 and 3, the petitioner cannot be permitted to conduct two parallel proceedings for the identical issue. On this score alone, the writ petition is liable to be dismissed.

7. Accordingly, the writ petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.
rk

-s/d-

Assistant Registrar (CS-VI)

True Copy

Sub-Assistant Registrar

To

1.The Deputy Commissioner of Police,
N.H. Road, Avadi.

2.The Inspector of Police,
T-7, Tank Factory Police Station,
Avadi, Chennai-600 054.

+ 1 cc to Government Pleader SR 25804

nr(co)
prk15/6

W.P.No.15171 of 2016



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