

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.02.2016

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.NO.2299 OF 2015

AND

M.P.NO.1 OF 2015

L.Palanivel

.... Petitioner

..vs..

- 1.The District Collector,
Tiruppur District,
Tiruppur.
- 2.The Tahsildar,
Tahsildar Office (South),
Palavanchipalayam,
Tiruppur, Tiruppur District.
- 3.The Commissioner of Police,
Tiruppur,
Tiruppur District.
- 4.The Inspector of Police,
Central Police Station,
Tiruppur.
- 5.The Inspector General of Registration,
No.100, Santhome High Road,
Mandaveli, Chennai-600 028.
- 6.The District Registrar,
District Registrar Office,
Tiruppur.
- 7.The Sub-Registrar Joint-I Office,
Registration Department,
Near Sivan Theatre,
Tiruppur, Tiruppur District.
- 8.The Chief Engineer,
Water Resource and Irrigation,
Public Works Department,
Chepauk, Chennai-600 005.

9.The Superintending Engineer,
Parambikulam Aliyaru Irrigation Scheme,
Public Works Department,
Udumalaipet Road,
Pollachi, Coimbatore District.

10.The Assistant Executive Engineer,
Parambikulam Aliyaru Irrigation Scheme,
Public Works Department,
Tiruchy Road,
Palladam, Tiruppur District.

11.S.Rajendran,

12.R.Selvaraj

13.N.Gopalakrishnan

14.Rajammal

15.P.Gurusamy

16.P.Sathish ...Respondents

Writ Petition has been filed under Article 226 of the Constitution of India, praying for issuance of a writ of Declaration, declaring the Sale Agreement executed by the Respondents 14, 15 & 16 in favour of the respondents 11, 12 & 13 vide Document No.7901/2014, dated 09.09.2014, before the 7th respondent, is null and void and non-est in the eyes of law and further, to direct the respondents 3 & 4 to initiate appropriate criminal action against the respondents 11 to 16, based on the petitioner's representation dated 26.11.2014.

For Petitioner : Mr.P.Kannan Kumar

For Respondents : Mr.Dig Vijaya Pandian, AGP

ORDER

This writ petition has been filed by the petitioner praying to declare the Sale Agreement executed by the Respondents 14, 15 & 16 in favour of the respondents 11, 12 & 13 vide Document No.7901/2014, dated 09.09.2014, before the 7th respondent, is null and void and nonest in the eyes of law and further, to direct the respondents 2 & 4 to initiate appropriate criminal action against the respondents 11 to 16, based on the petitioner's representation dated 26.11.2014.

2. In the affidavit filed in support of the writ petition, it has been averred by the petitioner as follows:-

2-1. The petitioner purchased a land in Survey No.294/2 (Sub-Division 294/2A) in Andipalayam Village, Tiruppur Taluk, Tiruppur District, from the respondents 14 to 16 on 09.04.2001, through registered Sale Deed vide Document No.1244/2001 and thereafter, the said land has been in possession and enjoyment of the petitioner. The adjacent land in the same Survey No.294/2 (as per Sub-Division, 294/2B), to an extent of 1656 sq.ft was acquired by the Public Works Department for the purpose of formation of Parambikulam Aliyaru Irrigation Canal. It is further case of the petitioner that the respondents 14 to 16, while selling the said land to the petitioner, have executed a Vardhman Letter on 09.04.2001 stating that the said land would be conveyed to the petitioner in the event the same was not required by the Public Works Department. On the same date, the respondents 14 to 16 have also received a sum of Rs.7,500/- towards a part of sale consideration and later, the 14th respondent received a sum of Rs.70,000/- towards sale consideration; thus, the 14th respondent received a total amount of Rs.77,500/- from the petitioner.

2-2. Thereafter, the respondents 14 to 16 started to create problem in respect of the land which was given to the petitioner through Varthamana Letter. Hence, the petitioner herein filed a suit in O.S.No.322 of 2008 before the District Munsif Court at Tiruppur, against the respondents 14 to 16 and the same is pending. The said suit was filed only in respect of the S.F.No.294/2A. The petitioner has been using the said land for reaching his house. But, on several occasions, the respondents 14 & 15 interfered with the petitioner in respect of using the said Government land. The petitioner has been given permission by the Executive Engineer, Public Works Department, Pollchi on 13.10.2014 for constructing a small bridge over the PAP Canal to reach his house. While so, the petitioner has been attacked by the respondents 14 & 15 on several occasions and in that regard, the petitioner has also given complaint before the Mangalam Police Station, Tiruppur District. The respondents 14 to 16 are trying to take away the pathway which is being used by the petitioner.

2-3. The petitioner has also collected information through Right to Information Act. The Public Works Department in its letter dated 06.11.2014 has informed the petitioner that the land in Survey No.294/2B belongs to Public Works Department and it is a Cart Track-cum-Irrigation Canal and if anyone is found to be trying to sell the said land, action will be taken as per law against them. The petitioner came to know that the respondents 14 & 15 are seriously taking steps to alienate the land, which is belonging to the Public Works Department. Hence,

the petitioner had sent a legal notice on 30.08.2014 to the respondents 14 to 16 and also to the 7th respondent viz., Sub-Registrar (Joint-I), Tiruppur. The respondents 14 to 16 have executed a registered Sale Agreement in favour of the respondents 11 to 13 for selling the land in S.No.294/2A. Even after receiving the legal notice, the 7th respondent failed to take suitable action against the private respondents. The private respondents have created forged document bearing No.7901 of 2014, dated 09.09.2014 and the same was registered before the Sub-Registrar Office, Tiruppur. Hence, the petitioner has made a representation to the 3rd respondent on 28.10.2014 seeking to take action against the respondents 14 to 16. The 3rd respondent has forwarded the representation of the petitioner to the 4th respondent, for necessary action. But, no further action was taken on the petitioner's representation. Hence, the petitioner has come forward with the present writ petition before this Court seeking to declare the sale agreement dated 09.09.2014 accused by the respondents 14 to 16 in favour of the respondents 11 to 13 as null and void.

3.The 7th respondent has filed a counter, opposing the prayer of the petitioner, inter alia stating that the subject agreement of sale was registered as it was found in order. If there is any discrepancy or adverse claim, the aggrieved person has remedy to approach the Civil Court to decide the ownership of the property. Further, the 7th respondent has no power to cancel the registration made, unless or otherwise specific orders are issued by the competent Court. Thus, the 7th respondent sought for dismissal of the writ petition.

4.Heard both sides and perused the materials available on record.

5.It is the main case of the petitioner that the property in question is a Government land belonging to Public Works Department and the petitioner has been using the said land as pathway to reach his house. Now, by creating forged document, the respondents 14 to 16 are trying to sell the said land. Hence, the petitioner seeks for declaration declaring the Sale Agreement executed by the respondents 14 to 16 in favour of the respondents 11 to 13 as null and void. But, in my considering opinion, such a prayer cannot be sought for in writ petition, since disputed questions of facts are involved in this matter. In the writ petition, this Court cannot conduct any roving enquiry into the disputed questions of fact between the parties. Even according to the petitioner, he has filed a suit against the private respondents and the same is pending. Further, as per the counter filed by the 7th respondent, the petitioner has to work out his remedy only before the Civil Court. Under such circumstances, there is no merit in the writ petition and the same is liable to be dismissed.

Accordingly, the writ petition is dismissed. However, the petitioner is at liberty to work out his remedy in the civil suit. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

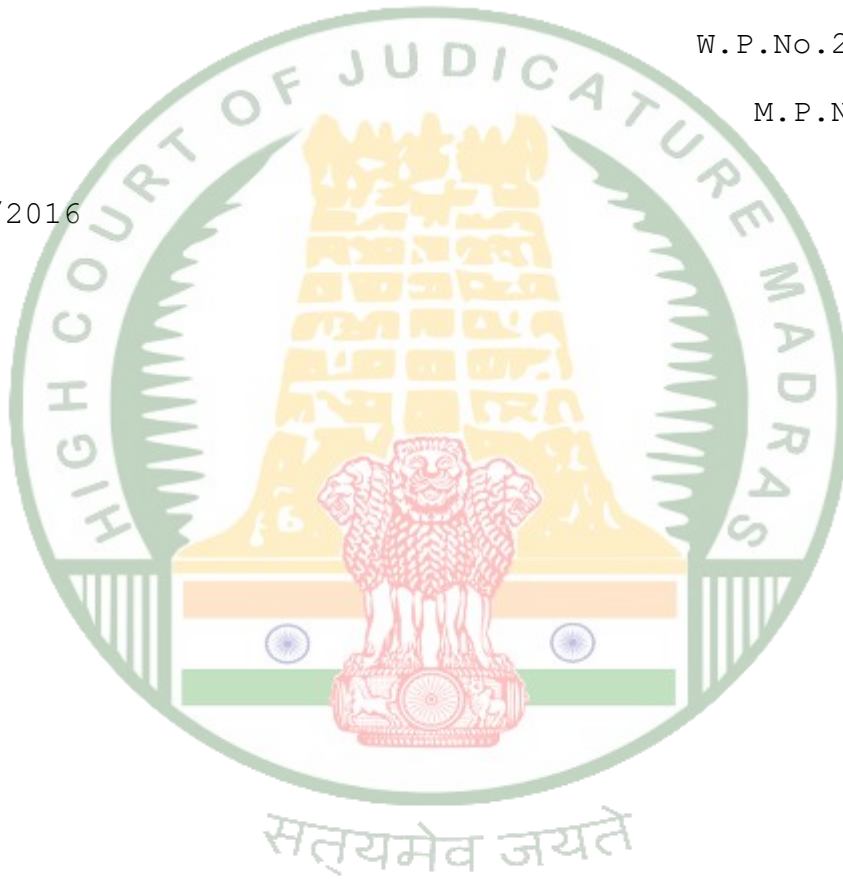
- 1.The District Collector,
Tiruppur District, Tiruppur.
- 2.The Tahsildar,
Tahsildar Office (South),
Palavanchipalayam,
Tiruppur, Tiruppur District.
- 3.The Commissioner of Police,
Tiruppur, Tiruppur District.
- 4.The Inspector of Police,
Central Police Station, Tiruppur.
- 5.The Inspector General of Registration,
No.100, Santhome High Road,
Mandaveli, Chennai-600 028.
- 6.The District Registrar,
District Registrar Office, Tiruppur.
- 7.The Sub-Registrar Joint-I Office,
Registration Department,
Near Sivan Theatre,
Tiruppur, Tiruppur District.
- 8.The Chief Engineer,
Water Resource and Irrigation,
Public Works Department,
Chepauk, Chennai-600 005.

9.The Superintending Engineer,
Parambikulam Aliyaru Irrigation Scheme,
Public Works Department,
Udumalaipet Road,
Pollachi, Coimbatore District.

10.The Assistant Executive Engineer,
Parambikulam Aliyaru Irrigation Scheme,
Public Works Department,
Tiruchy Road,
Palladam, Tiruppur District.

W.P.No.2299 of 2015
and
M.P.No.1 of 2015

ak[col]
srg 09/03/2016



WEB COPY