IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 09.09.2016

CORAM

THE HONOURABLE MR.JUSTICE B.RAJENDRAN

Writ Petition No.31468 of 2016
and
WMP. No.27305 of 2016

Jeyaraman .. Petitioner

Versus

1. The District Revenue Officer
Perambalur-621 220,
Perambalur District.

2.Mr.Natarajan

3. Meiyappan .. Respondents

Petition filed under Article 226 of the constitution of India to issue a Writ of Certiorarified Mandamus to call for the records pertaining to passing of the impugned order having reference Na.Ka.A2/4731/2013 dated 23.10.2015 on the file of the first respondent and quash the same and consequently direct the 1st respondent to include 0.18.0 Ares (45 cents) in S.F.No.7/2A Kalpadi(South) Village, Perambalur Taluk for Patta No.332 by removing the name of the 2nd Respondent Natarajan S/o.Muthappa Udayar.

For Petitioner : Mr.E.P.Senniyangiri

For Respondents : Mr.S.V.Duraisolaimalai
(R1)

ORDER

By consent, this Writ Petition is taken up and disposed of at the stage of admission itself.

2. This Writ Petition has been filed challenging the order of the first respondent in Na.Ka.A2/4731/2013, dated 23.10.2015, under which the first respondent directed the District Revenue Officer, Perambalur to sub-divide the land in question in favour of the second and third respondents herein.

3. The grievance of the petitioner is that the first respondent, while passing the order dated 23.10.2015, has failed to consider the fact that though 1.20 acres of land was mentioned in the sale deed, the petitioner is in possession and

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enjoyment of 1.98 acres of land over and above the extent of land mentioned in the sale deed in favour of the petitioner. It is his further grievance that the first respondent before passing the order dated 23.10.2015 failed to consider the fact that a civil suit in O.S. No.438 of 2013 was filed by the petitioner before the learned District Munsiff Court, Perambalur seeking for a declaration to declare that the petitioner is the owner of the land measuring 1.98 acres and for a consequential permanent injunction restraining the defendants in the suit from interfering with his possession. When the suit filed by the petitioner is pending, the first respondent ought not to have passed the order dated 23.10.2015, which is impugned in this writ petition. Thus, according to the learned counsel for the petitioner, the first respondent, while passing the order which is impugned in this writ petition has decided the title in respect of the property for which the petitioner has filed the suit. The learned counsel for the petitioner therefore prayed for allowing this writ petition.

4. Heard the learned counsel appearing for the petitioner as well as learned Additional Government Pleader appearing for the first respondent.

5. According to the petitioner, when the civil suit filed by him for the relief of declaration is pending before the competent Civil Court, the first respondent ought not to have passed the order, which is impugned in this writ petition, whereby the first respondent directed to effect sub-division of the land in question in favour of the second and third respondents.

6. It is seen from the records that the subject matter of the land for which the suit was filed by the petitioner and the land which covered in the impugned order are one and the same. Therefore, it is needless to mention that if the petitioner ultimately succeeds in the suit and get his title declared by the Civil Court, he will be entitled for the title in respect of the lands. In other words, the petitioner's right or title in respect of the land in question depends upon the outcome of the order to be passed by the Civil Court. In such circumstances, the petitioner having filed a Civil Suit before the Civil Court, ought not to have approached this Court. This Court also, in exercise of the remedy under Article 226 of The Constitution of India, cannot interfere with the order passed by the first respondent. Accordingly, the writ petition is closed as no further orders are necessary in this writ petition. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CCC)

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Sub Assistant Registrar

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arr/rsh

To

The District Revenue Officer,
Perambalur-621 220,
Perambalur District

1 cc to M/s.e.B.Senniyangiri, Advocate, sr.51279

WP No. 31468 of 2016

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