

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 03.11.2016

CORAM

THE HONOURABLE Mr.JUSTICE B.RAJENDRAN

WP.No.38099/2016 & WMP Nos.32662 & 32663/2016

The Dadabadi Sri Jin Kushalsurji
Jin-Chandrasurji Trust, represented
by its Managing Trustee K.Shanthilal
Gulecha, No.370, Konnur High Road
Chennai-23.

Petitioner

...Vs...

1.The Secretary, Revenue Department
Government of Tamil Nadu
Chennai 600 009.

2.The Sub Collector
O/o.Sub Collector, Tondiarpet
Perambur Taluk,
Chennai 600 081.

3.The Tahsildar
Perambur Taluk
Chennai 600 011.

4.Mr.Vikas Bharat Jain ...

Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records of the 2nd respondent in respect of the notice dated 20.09.2016 vide LR.No.A1/801/2016 issued to the petitioner and seeking to quash the same.

For Petitioner : Mr.P.V.Balasubramaniam

For RR 1 to 3 : Mr.A.N.Thambi Durai, Spl.GP

ORDER

Heard the learned counsel for the petitioner and Mr.A.N.Thambi Durai, learned Special Government Pleader, who accepts notice on behalf of the respondents 1 to 3 and with the consent on either side, the writ petition is taken up for final disposal.

2 The case of the petitioner / Trust is that it is the absolute owner of the land admeasuring to an extent of 151 grounds situate at No.370, Konnur High Road, Ayanavaram, Chennai and that a Guru temple was constructed in the said land and that the said Trust was registered in the year 1963 in the office of the Sub Registrar, Chennai South. Patta No.58/1956 was also issued in respect of the said property in the name of the erstwhile Trust, viz., Mr.Sait Mangalchand Jabak and thereafter, a fresh patta in No.3424/2010-11 was issued in favour of the petitioner / Trust who was taking care of the administration of the Shree Sumathinath Bhagwan Jain Temple. The petitioner / Trust also managed the affairs of Shri Chandraprabhu Maharaj Juna Jain Temple and a separate Trust, viz., Shri Chandraprabhu Maharaj Juna Jain Mandhir Trust was formed to manage the affairs of the temple. Thereafter, since the Sumathinath Jain Temple was in a dilapidated condition, it was decided to be demolished and reconstructed and as against the said decision, Shri Chandraprabhu Maharaj Juna Jain Mandhir Trust filed a civil suit in CS.No.440/2007 on the file of this Court, which was transferred to the file of the VII Additional City Civil Court, Chennai and it is pending. The said Trust also filed a writ petition in WP.No.26024/2012 before this Court seeking cancellation of the Patta No.3424/2010-11 and the same is also pending. During the pendency of the suit and the writ petition, the 4th respondent approached the 2nd respondent seeking cancellation of the patta issued in favour of the petitioner and the 2nd respondent issued notice on 06.08.2016 issued summons to the petitioner / Trust as well as the 4th respondent herein calling upon them to appear in person on 15.09.2016 and to submit the relevant documents. On 20.09.2016, the 2nd respondent issued the impugned notice to the petitioner to appear for an enquiry to be held on 30.09.2016 with all the relevant documents. Challenging the legality of the said summons, the petitioner is before this Court.

3 As evidenced from the impugned notice, it is only a summons issued to the petitioner / Trust calling upon them to appear for an enquiry to be conducted on 30.09.2016 at 11.00 a.m. and to produce all the relevant documents. In fact, the learned counsel for the petitioner had fairly submitted that the petitioner / Managing Trustee of the Trust had already appeared before the 2nd respondent on 15.09.2016 and submitted all the relevant documents and also brought to the notice of the 3rd respondent about the pendency of the civil suit before the Additional City Civil Court and the writ petition before this Court and de hors the same, once again the 3rd respondent has issued the impugned summons to the petitioner / Managing Trustee to appear for the enquiry on 30.09.2016. The only grievance of the petitioner is that when the dispute regarding title is pending before the Civil Court, the 3rd respondent has got no authority to decide the same.

4 This Court has, time and again, held that at the stage of summons/notice for appearance to participate in the enquiry, the Court will not, normally interfere with the same ; and it is for the aggrieved person to participate in the said enquiry and put forth all his grievances. In the instant case, it is the duty of the petitioner to bring it to the knowledge of the 3rd respondent regarding the legal impediment, if any and also about the pendency of the proceedings before the Civil Court and before this Court. Therefore, at this stage, the impugned notice cannot be quashed nor stayed as contended by the petitioner. The learned counsel for the petitioner submitted that the next date of enquiry was fixed on 07.11.2016.

5 Accordingly, the writ petition is disposed of giving liberty to the 2nd respondent to proceed in the matter, taking note of the pendency of the civil suit and the writ petition. The petitioner is directed to appear before the 2nd respondent on 07.11.2016 and cooperate with the enquiry. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Asst.Registrar (CS VII)

/true copy/

Sub Asst. Registrar

AP

To

1.The Secretary, Revenue Department
Government of Tamil Nadu
Chennai 600 009.

2.The Sub Collector
O/o.Sub Collector, Tondiarpet
Perambur Taluk, Chennai 600 081.

3.The Tahsildar
Perambur Taluk
Chennai 600 011.

1 cc to M/s. BFS LEgal, Advocate, Sr. 62968
1 cc to Government Pleader, sr. 62844

WP.No.38099 of 2016

SM (CO)
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