

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.12.2016

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.43121 of 2016
and
W.M.P.No.36953 of 2016

S.Ragunathan

... Petitioner

-Vs-

1. The Executive Officer
Tirukoilur Town Panchayat
Tirukoilur, Villupuram District
2. The Sub Registrar
Sub Registrar's office
Tirukoilur, Villupuram District
3. R.Radhakrishnan

... Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorari, to call for the records of the first respondent made in Na.Ka.No.475/2013/A1 dated 25.11.2016 and quash the same.

For Petitioner : Mr.Anand Subramanian

For Respondents : Mr.M.Elumalai
Government Advocate for R2
Mr.D.Muthukumar for R3

ORDER

Mr.S.Ragunathan has come to this Court challenging the correctness of the impugned order dated 25.11.2016, on the ground that the first respondent, without application of mind and in violation of the principles of natural justice, has wrongly recommended to the second respondent-Sub Registrar, Tirukoilur to cancel the registration without any authority whatsoever, which is arbitrary. Adding further, the learned counsel for the petitioner submitted that when a similar action was taken by the first respondent, the petitioner earlier filed W.P.Nos.2650 and 3934 of 2014 and this Court, while disposing of

the said writ petitions, by order dated 10.2.2015, directed the petitioner to submit his explanation treating the orders impugned therein as show cause notices with all the documents in support of his claim. This Court further observed that on receipt of the explanation from the petitioner, the first respondent should issue notice to the persons in whose favour the land stood registered in Document No.554 of 2007 and also to Mr.R.Radhakrishnan and after hearing all the parties in person, to pass a reasoned order on merits and in accordance with law. In spite of such direction, the impugned order has been wrongly passed without giving any reason, he pleaded.

2. But this Court is not able to find any sound basis to entertain the present writ petition, for two reasons, as the impugned order gives convincing and cogent reasons for rejecting the request of the petitioner. Firstly, when the petitioner claims that he is the absolute owner of the property covered in Survey No.71/1B of Keezhaiyur village under the Tirukoilur Town Panchayat, the first respondent, taking support from the gift deed dated 18.8.2004 specifically mentioning that the land in question has already been shown as a common pathway, has rightly come to the conclusion that after the land in question had been gifted away under the gift deed dated 18.8.2004, the petitioner cannot once again encroach upon the same property. Secondly, when the petitioner filed a suit in O.S.No.423 of 2013 on the file of the Second Additional Subordinate Judge at Villupuram seeking a decree of declaration of title of the suit schedule property with consequential permanent injunction restraining the defendants, their men and servants from in any way interfering with his peaceful possession and enjoyment of the property, in paragraph III-b of the plaint, completely contrary to the stand taken in the writ petition, a plea was taken that there was no pathway to reach the property in Survey No.71/1 eastern Ac.0.42 ½ allotted to the plaintiff in the partition deed. A perusal of the copy of the plaint filed in the typedset to the writ petition does not throw any light whatsoever on the gift deed dated 18.8.2004. Therefore, this Court is not inclined to entertain the writ petition, as the petitioner has to work out his remedy only in the pending suit. Accordingly, the writ petition fails and it is dismissed. Consequently, W.M.P.No.36953 of 2016 is also dismissed. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

ss

To

1. The Executive Officer
Tirukoilur Town Panchayat
Tirukoilur, Villupuram District.
2. The Sub Registrar
Sub Registrar's office
Tirukoilur, Villupuram District.

+1cc to Mr.Anand Subramanian, Advocate, S.R.No.72477
+2cc's to Mr.D.Muthukumar, Advocate, S.R.No.73900
+1cc to the Government Pleader, S.R.No.72979

W.P.No.43121 of 2016

BR(CO)
CA(26/12/2016)



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