

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.02.2016

CORAM

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM

W.P.No.5196/2016 & WMP.No.4569/2016

R.Sarojini

.. Petitioner

Vs

1.The President
Devarayapuram Village Panchayat
Devarayapuram-641109
Coimbatore District.

2.The Assistant Engineer
Tamil Nadu Electricity Board
Devarayapuram 641109
Coimbatore District.

3.R.Velusamy

4.R.Maheswari

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of mandamus to forbear the respondents 1 and 2 from granting any plan approval or temporary electricity service connection to the 4th respondent to carry on the construction in the lands measuring 4793 1/4 sq.ft., bearing SF.No.697/3, Devarayapuram Village, Coimbatore District as opposed to the petitioner's right to property by considering her representation dated 28.01.2016.

For Petitioner : Mr.N.Manokaran

For Respondents : Mr.P.Chinnadurai, AGP for R1
Mr.S.K.Rameshwar for R2

ORDER

Heard Mr.N.Manokaran, learned counsel for the petitioner ; Mr.P.Chinnadurai, learned Additional Government Pleader accepting notice on behalf of the 1st respondent ; and Mr.S.K.Rameshwar, learned counsel accepting notice on behalf of the 2nd respondent and with their consent, this writ petition is taken up for final disposal at the admission stage itself.

2 The petitioner is the wife of [late] R.Rangamuthusamy, who is the brother of the 3rd respondent. The petitioner now seeks for a direction upon the 1st respondent not

to give any planning permission in respect of the property in SF.No. 697/3, Devarayapuram Village, Coimbatore District admeasuring 4793 sq.ft., which appears to have been sold in favour of the 4th respondent by the 3rd respondent. According to the petitioner, a civil suit is pending in OS.No.989/2014 on the file of the Sub Court, Coimbatore. The said suit was filed by the petitioner and her two children and the 3rd respondent herein is the 2nd defendant and the 4th respondent herein is the 5th defendant. The Deputy Registrar of Cooperative Societies, Coimbatore is the 6th defendant, apart from the other private parties who are the other defendants in the suit. The petitioner has sought for a declaration to declare the Will dated 25.01.2006 executed by Ramasamy Gounder [father of the 3rd respondent/father-in-law of the petitioner] in favour of the 3rd respondent/2nd defendant and to direct the defendants to divide the suit property in five equal shares and to allot one share to the plaintiff/the petitioner herein. Further, the petitioner has also sought for a declaration to declare the Sale Deed dated 25.03.2013 executed by the 3rd respondent in favour of the 4th respondent herein, as being null and void and not binding on the plaintiff/petitioner herein. The petitioner has also filed an Interlocutory Application in the suit in IA.No.813/2014, praying for an order of injunction to restrain the Deputy Registrar of Cooperative Societies, Coimbatore from proceeding further pursuant to the order of attachment dated 06.02.2013 over the said property. It is stated that the interlocutory application is still pending and no orders have been passed. The defendants 1 to 3 in the suit, i.e., including the 3rd respondent herein, have filed their written statements on 28.11.2014. With these facts, the petitioner has submitted a representation to the 1st respondent stating that the 1st respondent should not consider the application for planning permission submitted by the 4th respondent and the 2nd respondent should not grant any temporary electricity supply.

3 Learned counsel for the petitioner would submit that as on date, there is an order of attachment passed by the Deputy Registrar, Cooperative Societies, Coimbatore, attaching the said property.

4 Learned counsel appearing for the 1st respondent submitted that sufficient time may be granted to the 1st respondent to consider the petitioner's representation dated 28.01.2016, after notice to all concerned.

5 In the light of the above, without going into the merits of the allegations made by the petitioner as against the respondents 3 and 4, there will be a direction to the 1st respondent to consider the petitioner's representation dated 28.01.2016 after notice to the petitioner as well as to the respondents 3 and 4 as well as the other defendants in the suit

including the Deputy Registrar, Cooperative Societies, Coimbatore and pass appropriate orders on merits and in accordance with law within a period of eight weeks from the date of receipt of a copy of this order.

6 It is made clear that since this writ petition is disposed of at the admission stage, waiving notice to the respondents 3 and 4, the merits of the allegations have not been gone into and it is open to the 1st respondent to take note of the same and proceed in accordance with law.

7 The writ petition is disposed of with the above direction. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

AP

To:

1.The President
Devarayapuram Village Panchayat
Devarayapuram-641109
Coimbatore District.

2.The Assistant Engineer
Tamil Nadu Electricity Board
Devarayapuram 641109
Coimbatore District.

+1cc to Mr.S.K. Raameshuwar, Advocate, S.R.No.9304
+1cc to Mr.N. Manokaran, Advocate, S.R.No.9167

CA(CO)
EU(24/02/2016)

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