



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.10.2016

CORAM :

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THE HONOURABLE MR.JUSTICE V.BHARATHIDASANWrit Petition (MD) No.13792 of 2016

Ramesh

... Petitioner

Vs.

1.The Commissioner,
Devakkottai Municipallity,
371/156, Tirupatthur Road,
Devakottai.

2.The Assistant Executive Engineer,
TANGEDCO,
Tamil Nadu Electricity Board,
Corporation Road, Devakottai.

3.S.Chelladurai

... Respondents

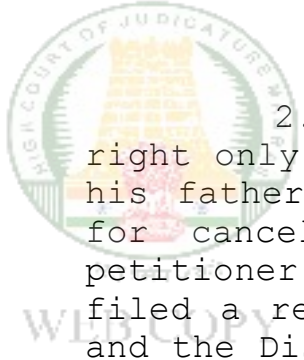
Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the respondents to consider petitioners representation dated 13.4.2016 and not to assess the property tax or grant any electricity connection in the name of the third respondent in respect of the property of an extent of 0.2616.0 sq.mt. in survey No.B/1/26 block no.1 Ward B Devakottai Taluk.

For Petitioner : Mr.AR.L.Sundaresan,
Senior Counsel for
M/s.Al.Ganthimathi

For 1st Respondent : Mr.H.Mohamed Imran
For 2nd Respondent : Mrs.S.Srimathy
For 3rd Respondent : Mr.V.Singan

ORDER

According to the petitioner, he is the absolute owner of the property in Survey No.B/1/26, Block No.1, Ward B, Devakottai Taluk. He has settled the said property to his daughter by way of registered settlement deed dated 11.03.2011.



2. It is submitted that the third respondent who has no right only based on a settlement deed of the year 2008 executed by his father filed an appeal before the Revenue Divisional Officer for cancellation of patta which stands in the name of the petitioner. Earlier, the said appeal was rejected against which he filed a revision before the District Revenue Officer, Sivagangai and the District Revenue Officer allowed the said revision and set aside the order passed by the Revenue Divisional Officer. Challenging the same, the petitioner filed a writ petition in W.P (MD) No. 3828 of 2013 and this Court, by an order dated 16.04.2015 allowed the said writ petition and set aside the order passed by the District Revenue Officer and remanded the matter back to the District Revenue Officer for fresh consideration. On such remand, the District Revenue Officer passed an order on 28.08.2015 dismissing the revision filed by the third respondent.

3. According to the petitioner, the said order was not challenged by the third respondent and as per the order of the District Revenue Officer, patta stands in his name. Subsequently, the third respondent has also filed a suit in O.S. No. 135 of 2015, on the file of the District Munsif Court, Devakottai for declaration and injunction. It is further submitted that the third respondent filed I.A. No. 1116 of 2015 along with the above said suit for interim injunction not to disturb his possession and enjoyment of the property in question which was also dismissed by the Civil Court. Now, it is stated that against the order passed in I.A., an appeal is pending in C.M.A. No. 6 of 2016 on the file of the Sub Court, Devakottai wherein no order of stay has been granted by the Appellate Court. While so, the first respondent municipality is taking steps to transfer the property in the name of the third respondent and the second respondent is also taking steps to give electricity service connection in favour of the third respondent. Hence, the petitioner has sent a representation dated 13.04.2016 to the respondents 1 and 2. Since no order has been passed, the present writ petition has been filed.

4. Learned counsel appearing for the first respondent submitted that property tax stands in the name of the third respondent has already been cancelled by the first respondent.

5. Learned counsel appearing for the second respondent submitted that before the objections submitted by the petitioner, electricity service connection has been granted on 02.02.2016 and only thereafter, they received objection from the petitioner on 16.02.2016. She would further contend that since the above objection has received belatedly, they are not in a position to disconnect the same.

6. Learned counsel appearing for the third respondent submitted that there is a civil suit pending between the parties with regard to the title dispute. According to him, though civil



suit is pending, there is no bar for seeking electricity service connection in favour of the third respondent,

7. Heard learned counsel appearing for the parties and perused the materials available on record.

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8. Admittedly, the order passed by the District Revenue Officer granting patta in favour of the petitioner was not challenged by the third respondent and therefore patta stands in the name of the petitioner. The application for interim injunction filed by the third respondent in I.A.No.1116 of 2015 was also dismissed by the Civil Court against which an appeal is pending in C.M.A.No.6 of 2016 on the file of the Sub Court, Devakottai wherein no order of stay was granted by the appellate Court. Considering the fact that electricity service connection has been granted by the second respondent without knowing all these facts, the second respondent is directed to consider the objection filed by the petitioner on 13.04.2016 and pass appropriate orders on merits and in accordance with law, within a period of six weeks from the date of receipt of a copy of this order, after giving opportunity to the petitioner as well as to the third respondent.

9. With the above direction, the writ petition is disposed of. No costs.

Sd/-

Assistant Registrar (CS-I)

/True copy/

Sub Assistant Registrar

To

1. The Commissioner,
Devakkottai Municipallity,
371/156, Tirupatthur Road,
Devakottai.

2. The Assistant Executive Engineer,
TANGEDCO,
Tamil Nadu Electricity Board,
Corporation Road, Devakottai.

+1 cc to M/s.Ajmal Associates, Advocate in SR.No. 63785
+1 cc to M/s.AL.Gandhimathi, Advocate in SR.No. 63586

sms

CSL/SS-2/22.11.2016: 3P/5C

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25.10.2016