

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.04.2017

CORAM

The Honourable MR. JUSTICE M.DURAIWAMY

W.P.No.8787 of 2017 &

W.M.P.Nos.9627 & 9628 of 2017

R.Krishnasamy @ Mohan

... Petitioner

v.

1 Union Territory of Puducherry
Rep by its Chief Secretary
Puducherry

2 Deputy Collector (Revenue)
North Puducherry

3 The Tahsildar
Taluk Office
Oulgarpet

4 Murugan

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Certiorari, calling for the records of impugned proceedings of the 2nd respondent dated 24.08.2016 in No.5034/ DC(R)N/ NC-A4/ 2016/ 1948 which culminates into the

impugned proceedings of the 3rd respondent dated 14.12.2016 in NO.2782/ TOO/ PGR/ E /2016 and quash the same

For Petitioner : Mr.D.Ravichander

For Respondents : Mr.C.T.Rammesh
Addl. Govt. Pleader (Pondicherry)_

ORDER

Mr.C.T.Rammesh, learned Additional Government Pleader (Pondicherry) takes notice for the respondents 1 to 3.

2. The petitioner has filed the above writ petition to issue a Writ of Certiorari to call for the records of impugned proceedings of the 2nd respondent dated 24.08.2016, which culminates into the impugned proceedings of the 3rd respondent dated 14.12.2016 in and to quash the same

3.1 It is the case of the petitioner that the property situated in R.S.No.296/3 measuring an extent of 00-08-00 HC, No.38, Saram Revenue Village, Oulgarpet Taluk, Puducherry, originally belonged to one Kannamma and after her demise, the said property was inherited by late Rathina Sabapathy, who is the grand-father of the petitioner.

Further, according to the petitioner, their family is enjoying peaceful possession of the said property till this date.

3.2 By the impugned communications dated 24.08.2016 and 14.12.2016, the respondents 2 and 3, directed the 4th respondent to carry out the fencing around the pond situated in the property. The petitioner sent his objections to the 2nd respondent not to address the 4th respondent any communication pertaining to the said property. But, the 3rd respondent ignored the objections.

3.3 The 3rd respondent by his impugned proceedings dated 14.12.2016 recorded that the 4th respondent had carried out the fencing around the pond located in the disputed land in R.S.No.296/2 in order to prevent the children from entering into the land. Further, in the said letter, the 3rd respondent has also recorded that there is a dispute between the parties with regard to title and possession of the said property between the petitioner and the 4th respondent.

4. Now the grievance of the petitioner is that when the suit filed by him in O.S.No.493 of 1998 on the file of II Additional District Munsif

Court, Puducherry, is pending, the impugned letter dated 14.12.2016 may be used against him by the 4th respondent.

5. On a reading of the letter dated 14.12.2016, it is clear that the 3rd respondent has not given any finding or observation in favour of the 4th respondent with regard to title or possession of the property. Therefore, I do not find any reason to interfere with the order passed by the respondents 2 and 3 dated 24.08.2016 and 14.12.2016. However, I direct the II Additional District Munsif Court, Puducherry, to decide the suit in O.S.No.493 of 1998, on merits and in accordance with law, without being influenced by any of the observations given by the respondents 2 and 3 in their orders dated 24.08.2016 and 14.12.2016.

With these observations, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

12.04.2017

Index: Yes/No

Rj

**W.P.No.8787 of 2017
& W.M.P.Nos.9627 & 9628 of 2017
M.DURAIWAMY,J.**

At the instance of the learned counsel for the petitioner, the matter has been listed today under the caption 'For being mentioned'.

2.The learned counsel for the petitioner submitted that in paragraph-3.3 of the order dated 12.04.2017, the Survey Number has been wrongly mentioned as R.S.No.296/2 instead of R.S.No.296/3. Further, the learned counsel submitted that in paragraph nos.4 & 5 of the order, the suit number has been wrongly mentioned as O.S.No.493 of 1998 instead of O.S.No.495 of 1998.

3.The learned counsel appearing for the respondents has no objection for making the amendments in the order dated 12.04.2017.

4.In view of the above, Registry is directed to correct the following:

(i) paragraph no.3.3 - ***“R.S.No.296/3”*** instead of ***“R.S.No.296/2”*** and

(ii) paragraph nos.4 & 5 - ***“O.S.No.495 of 1998”*** instead of ***“O.S.No.493 of 1998”***

5.The Registry is directed to carry out the amendment in the order and issue fresh copies to both sides.

6.In other aspects, the order dated 12.04.2017 shall remain unaltered.

To

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- 2 Deputy Collector (Revenue)
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