

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.12.2017

CORAM

THE HONOURABLE MR.JUSTICE K. RAVICHANDRABAABU

W.P.No.32469 of 2017

and

W.M.P.Nos.35779 to 35781 of 2017

Thirupathi Nehru

... Petitioner

vs.

1. The Superintendent of Police,
Collector Office Road,
Moovendar Nagar,
Villupuram - 605 602.
2. The Deputy Superintendent of Police,
Anti-Land Grabbing Special Cell,
Villupuram District,
Villupuram.
3. The Sub-Inspector,
Anti-Land Grabbing Special Cell,
Villupuram District,
Villupuram.
4. The District Collector,
Collector Office Road,
Moovendar Nagar,
Villupuram - 605 602.
Villupuram District.
5. The Revenue Tahsildar,
Office of Tahsildar,
Sankarapuram Taluk,
Villupuram District - 606 401

6. Annapoorani Ammal

... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records of the 5th respondent in Na.Ka.A3/RTR68/2016 dated 02.11.2017 and quash the same as illegal arbitrary and non-est in law and (b) forbearing the respondents 2, 3 and 4 from

interfering and adjudicating the civil dispute in respect of petitioner property comprised in old S.No.77/10 New S.No.161/13, Manjupattur Village, Sankarapuram Taluk, Villupuram District, which is the subject matter of civil suit pending between the petitioner and 6th respondent and from issuing any coercive direction to the 5th respondent/ Revenue authority to conduct survey, measurement of petitioner's property, mutation of Revenue Records and roving enquiry of title so as to adjudicate the civil dispute which is per se illegal and contrary to law.

For Petitioner : Mr.B.Vijay

For Respondents: Mr.R.Govindasamy,

Special Government Pleader for R1 to R5

Mr.A.Nagarajan
for R6.

O R D E R

Mr.R.Govindasamy, learned Special Government Pleader takes notice for the respondents and Mr.A.Nagarajan, learned counsel takes notice for the 6th respondent. By consent of the parties, the main writ petition itself is taken up for final disposal.

2. Heard learned counsel for the petitioner and the learned Special Government Pleader appearing for the respondents 1 to 5 as well as the learned counsel appearing for the 6th respondent.

3. The petitioner is aggrieved against the enquiry notice issued by the 5th respondent Tahsildar in directing survey of the subject matter land in pursuant to the request/report made by the 3rd respondent police. According to the petitioner, the subject matter land belongs to him and he is having title deeds in respect of the said land which are of the year 1931. It is further stated by the petitioner that he has already filed a Civil Suit against the 6th respondent on the file of Principal District Munsif Court, Sankarapuram in O.S.No.159/2017 for permanent injunction and the said suit is still pending. Therefore, it is contended by the petitioner that neither the 2nd and 3rd respondents nor the 5th respondent have any jurisdiction to decide the title dispute between the petitioner and the 6th respondent in respect of the above mentioned property.

4. Learned counsel appearing for the 6th respondent, on the other hand, submitted that the claim made by the petitioner in respect of the subject matter land is without any bonafide as the subject matter land is the ancestral property of the 6th respondent and she is also having sufficient number of title deeds in support of her contention. According to the 6th respondent, the petitioner encroached upon the land when the 6th respondent was away from the Village.

5. Upon considering the submissions made by the learned counsel for the petitioner and the learned counsel appearing for the 6th respondent, it is evident that there is title dispute between the parties in respect of the subject matter land. It is also not in dispute that the petitioner has filed a Civil Suit in O.S.No.159/2017 against the 6th respondent, however, for bare injunction. Needless to say that when a title dispute is there between the contesting parties herein, neither police officials viz., the 2nd and 3rd respondents nor the revenue official viz., the 5th respondent can go into such dispute and decide the same in any manner.

6. Learned counsel for the petitioner submitted that the petitioner would take appropriate steps to amend the prayer and the pleadings in the pending suit so as to include the prayer for declaration as well so that the lis between the parties can be decided comprehensively by the competent Civil Court.

7. Accordingly, this writ petition is disposed of by directing the petitioner to take immediate steps to file an amendment petition in the said suit seeking for amendment of the relief as well as the pleadings to include the prayer for declaration. As the Civil Court has already seized of the matter, it is for the 6th respondent to work out her remedy before the Civil Court. It is further made clear that this Court is not expressing any view on the merits of the claim made by the petitioner as well as the 6th respondent in respect of the subject matter land as it is for the concerned Civil Court to look into the same and decide it on merits and in accordance with law.

8. Since this Writ petition is disposed of with the above observations and directions, the impugned action of the 5th respondent passed on the report submitted by the 3rd respondent to survey the subject matter land shall be deferred till a finality is reached in the Civil Court or if any interim order is passed to that effect by the Civil Court. No costs. Consequently, connected miscellaneous petitions are closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

vsi

To

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+1 CC to Govt. Pleader sr 89930.

+1 CC to Mr.G. Mohammed Aseef, advocate sr 89970.

W.P.No.32469 of 2017

SP(02/01/2018)

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