

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.02.2017

CORAM:

THE HONOURABLE MR. JUSTICE B.RAJENDRAN

WRIT PETITION No.2393 of 2017

S.Lakshmikanthan

... Petitioner

vs.

1. State rep. by the
District Revenue Officer,
Collectorate Building,
Sathuvachari,
Vellore - 632 009.

2. Ramachandran ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorari to call for the records of the 1st respondent dated 09.01.2017 passed in Na.Ka.P1/15123/2016 and quash the same.

For Petitioner : Mr.V.S.Senthil Kumar

For Respondents : Mr.A.Kumar,
(R1) Special Government Pleader

O R D E R

The petitioner has come up with this Writ Petition seeking to quash the order dated 09.01.2017 passed by the 1st respondent.

2. According to the petitioner, the subject property devolved upon him by means of a registered Will executed by Ms.P.Murray and he is in absolute possession and enjoyment of the same, since the demise of Ms.P.Murray. It is his case that the patta, chitta, adangal and tax receipts stand in his name and that the 2nd respondent trespassed into his peaceful possession and enjoyment of the said property on 21.08.2016, claiming that the said property is his ancestral property. Thereafter, the petitioner initiated a suit for declaration and permanent injunction against the 2nd respondent and others, in O.S.No.132 of 2016 on the file of the District Munsif Court, Tirupattur and also obtained an order of temporary injunction as early as on 22.12.2016 in I.A.No.731 of 2016 in O.S.No.132 of 2016 till the disposal of the suit.

3. It is the further case of the petitioner that the 2nd respondent initiated a collusive suit in O.S. No.277 of 2008 on the file of the District Munsif Court, Tirupattur without impleading the real owner Ms.P.Murray as a party and obtained a decree dated 30.09.2009 and based on the decree, a sham settlement deed has been executed on 08.12.2009. In this regard, the petitioner lodged a complaint to the 1st respondent against the 2nd respondent and the 1st respondent initiated an enquiry and enquired various officials and individuals. However, he had passed the present impugned order. Hence, the petitioner is before this Court.

4. When the matter is taken up for hearing, learned counsel for the petitioner contended that the authority concerned ought not to have cancelled the patta, which is already in favour of the petitioner and that he ought to have granted status quo in that matter. He further contended that the petitioner is in possession of the subject property by means of the Will executed in his favour and that the 2nd respondent has no title to the said property.

5. In reply, learned Special Government Pleader appearing for the respondents submitted that since the title is disputed and also there are many discrepancies in respect of execution of Will in favour of the petitioner, the 1st respondent has rightly passed the impugned order.

6. In view of the above and on a careful perusal of the material documents available on record, this Court is of the view that since the Civil Suit initiated by the petitioner is pending and that the patta was transferred very recently, i.e. during August 2016 and thereafter the Civil Suit was filed, the issue can better be dealt with by the Civil Court.

7. In fine, this Writ Petition is dismissed with liberty to the petitioner to approach the Civil Court, wherein, the suit initiated by him is pending. The Civil Court shall independently consider the findings given by the 1st respondent herein with regard to the petitioner and come to a conclusion, de hors the findings given by this Court, after affording sufficient opportunity of hearing to the parties.

No costs. Consequently, connected W.M.P.No.2377 of 2017 is closed.

Sd/-

Asst.Registrar

/true copy/

Sub Asst. Registrar

aeb

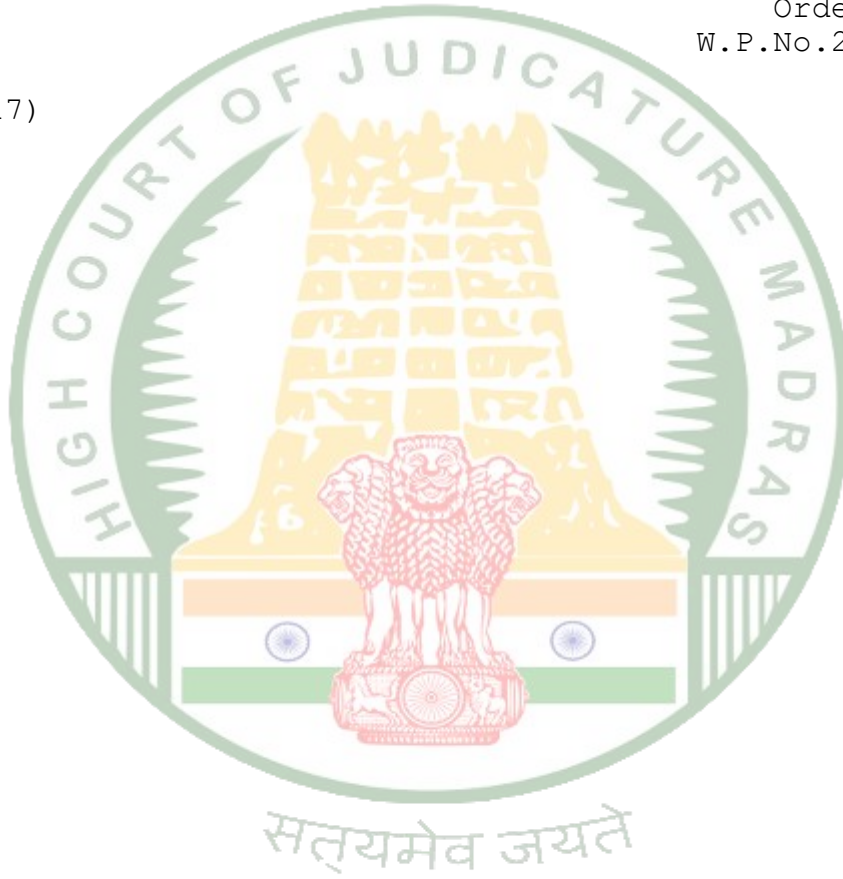
To:

The District Revenue Officer,
Collectorate Building,
Sathuvachari,
Vellore - 632 009.

+1cc to Mr.V.S.Senthil kumar, Advocate sr.6908

Order in
W.P.No.2393 of 2017

gj (co)
ss(6/2/2017)



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