

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:05.07.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MR. JUSTICE N.SESHASAYEE

W.P.No.15100 of 2017 and WMP No.16369 and 16370 of 2017

1.Samathuvam Ammal

2.T.Anand

.. Petitioners

Vs

1.The District Revenue Officer,
Collectorate,
Salem - 636 001

2. Dr.S.Govindan

3. M.Vasugi

.. Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus by calling for the records relating to Na.Ka.11216/2016/K2 dated 08.03.2017 on the file of the first respondent herein - quash the same and consequently direct the first respondent herein to permit the petitioners to place their objections and participate in the enquiry to be conducted by the first respondent.

For Petitioners: Mr.T.Murugamanickam, Senior Advocate,
Assisted by Ms.Zeenath Begum

For Respondents: Mr.C.Jagadish,
Special Government Pleader
for R1

ORDER

[Order of the Court was made by M.SATHYANARAYANAN, J.]

By consent, the writ petition is taken up for final disposal.

2 The 2nd respondent on an earlier occasion, filed W.P.No.39974/2015 against the 1st respondent herein, the Commissioner of Land Acquisition, Chennai and the Collector of Salem District as well as against one M.Vasugi praying for issuance of Writ of Mandamus and official respondents were to

forthwith remove the encroachment in S.No.22/7A2A, 22/7B2, 22/7A1 and 22/3, Kottagoundampatty Village, Omalur Division, Salem District and the proceedings of the Commissioner of Land Administration, dated 15.07.2015. A Division Bench of this Court vide order dated 18.12.2015, has disposed of the Writ Petition and directed to consider the representation submitted by the 2nd respondent after providing opportunity to alleged encroacher viz., M.Vasugi who was arrayed as 4th respondent therein.

3. The 1st respondent in compliance of the said order, has commenced the enquiry based on the representation given by the 2nd respondent and on receipt of the notice, the petitioners herein also submitted their counter / objection. The grievance expressed by the petitioners is that the 1st respondent herein is not willing to take their objection for the purpose of disposal of the representation submitted by the 2nd petitioner.

4. Mr.T.Murugamanickam, learned senior counsel assisted by Ms.Zeenath Begum, learned counsel for the petitioners would submit that the 2nd respondent has suppressed the material facts namely the earlier litigation.

5. The 4th respondent in W.P.No.39974/2015 viz., Vasugi, is the daughter in law of the 1st petitioner and she along with one Madan Kumar and Shobana had filed the suit in O.S.No.67/2011 on the file of the Court of the District Judge, Salem, for partition and separate possession and in the said suit, the 2nd respondent filed I.A.No.203/2016 under Order 1 Rule 10[2] and Sec.151 C.P.C. to implead him as the 5th defendant and in the affidavit filed in support of the writ petition raised the very same contention put forth by him in W.P.No.39974/2015 and the Lower Court, vide order dated 30.08.2016 has rejected and dismissed the petition for impleadment and no challenge has been made to the said order. Therefore, he has come forward to file this writ petition.

6. It is the further submission of the learned senior counsel appearing for the petitioner that in the light of the same, counter / objection raised by the petitioner shall be taken into consideration by the 1st respondent before passing orders on the representation submitted by the 2nd respondent.

7. Per contra, Mr.C.Jagadish, learned Special Government Pleader appearing for 1st respondent would submit that since this Court in the order dated 18.12.2015 made in WP No.39974 of 2015 has directed the disposal of the representation submitted by the 2nd respondent herein / petitioner therein after putting on notice, the 4th respondent viz., Vasugi, the 1st respondent is not under obligation to hear the petitioners.

8. This Court has considered the rival submissions and also perused the materials placed before it.

9. A perusal of the order dated 18.12.2015 made in WP No.39974 of 2015 would disclose that it came to be disposed of at the admission stage itself and notice to the 4th respondent, viz., Vasugi, has not been issued. The materials placed before this Court from the typed set of documents would also reveal that the 2nd respondent herein filed a petition for impleadment in I.A.No.203 of 2016 in O.S.No.67 of 2011 and it was dismissed on 30.08.2016 filed by the II Additional, District Judge, Salem.

10. It is also brought to the knowledge of this Court that in O.S.No.67 of 2011 filed by Mrs.Vasugi and two others, a preliminary decree came to be passed and the 1st petitioner herein who was arrayed as the 1st defendant has also filed an appeal in A.S.No.288 of 2017 and it is pending on the file of this Court.

11. In the light of the above facts and circumstances, this Court directing the 1st respondent to take the counter/objections filed by the writ petitioners on file and after putting the 2nd and 3rd respondents herein on notice, shall dispose of the representation submitted by the 2nd petitioner herein, as expeditiously as possible and not later than eight weeks from the date of receipt of copy of this order and also communicate the decision taken to the petitioners as well as to the respondent 2 and 3.

12. The writ petition stands disposed of with the above direction. No costs. Consequently, the connected miscellaneous petitions are also closed.

Sd/-
Asst.Registrar (CO)

/true copy/ जयते

Sub Asst. Registrar

rka/sk
To
The District Revenue Officer,
Collectorate,
Salem - 636 001
+1cc to Mr.Zeenath Begam, Advocate sr.46792

+1cc to Government Pleader sr.47221

WP.No.15100/2017
and WMP No.16369 of 2017

lrs(co)
ss(26/7/2017)

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