

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.02.2017

CORAM :

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

W.P. No. 3440 of 2011
and
M.P. Nos. 1 & 2 of 2011

K. Mangalam

..Petitioner

Vs.

1. The District Collector
Erode District
Erode.
2. The Executive Officer
Uthukuli Town Panchayat
Perundurai Taluk
Erode District.
3. The Assistant Engineer
Tamil Nadu Electricity Board
Uthukuli
Perundurai Taluk
Erode District.
4. Manonmani
W/o. Late Subramani
5. Rajesh
S/o. Late Subramani
6. Kannika Parameswari
D/o. Late Subramani

R3 to R6 impleaded as per order
dated 7.4.2001 in M.P.No.3 of 2011.

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, to call for the records pertaining to the proceedings in Na.Ka.No. 521/2010 dated 24.01.2011 on the file of the 2nd respondent and the consequential order passed by the 3rd respondent in Ka. No. UMIPO/E.V/N/ Uthukuili/Ko.Kattu/No. 224/2011 dated 03.02.2011 and quash the same as illegal, incompetent and unconstitutional and pass such further orders.

For Petitioner: Mr. M. Guruprasad

For Respondents: Mr. S. Navaneethan,
Addl. Govt. Pleader for R1

Mr. T. Sreenivasan for R2

Mr. J. Ravindran for R3

Mr.A.K. Kumarasamy for R4 to R6

O R D E R

The petitioner has filed the present writ petition, seeking to quash the proceedings of the 2nd respondent issued in Na.Ka.No. 521/2010 dated 24.01.2011 and the consequential order passed by the 3rd respondent in Na.Ka. No. UMIPO/E.V/N/Uthukuili/Ko.Kattu/ No. 224/2011 dated 03.02.2011.

2. Learned counsel for the petitioner submitted that the subject property was in possession of the petitioner's father-in-law for several years and later he gifted the property to the petitioner's daughters, by executing a Will. After the death of petitioner's father-in-law, since some rival parties disturbed the possession of the petitioner, he filed a suit in O.S. No.145 of 2008 on the file of District Munsif Court, Perundurai seeking for a relief of declaration and injunction. The rival parties also filed a suit in O.S. No. 251 of 2008 before the said Court seeking for bare injunction. Pending the suits, the 2nd respondent, by his proceedings No. Na.Ka.521/2010 dated 24.01.2011 cancelled the house tax No.3277 of the petitioner, without any notice. Based on the said order, the 3rd respondent issued a notice dated 03.02.2011 stating that the electricity connection of the building will be disconnected, if the petitioner fails to produce the title deed. Aggrieved by the same order, the present writ petition is filed by the petitioner.

3. According to the petitioner, the order passed by the 2nd respondent is violative of principles of natural justice, since no notice has been issued and the petitioner has been denied with an opportunity of hearing. Hence, the petitioner was unable to put forth any material, favouring him and therefore, on this score itself, the order passed by the 2nd respondent and the consequential order issued by the 3rd respondent is liable to be quashed.

4. Learned Additional Government Pleader would submit that there is a dispute with regard to the subject property, between the petitioner as well as private respondents 4 to 6 and the same is pending before the Civil Court. In the event of the matter being remitted back to the authorities, an opportunity would be given to the parties concerned to put forth their contentions.

5. Heard learned counsel for the parties and perused the material available on record.

6. Considering the facts and circumstances of the case and the submission of the learned Additional Government Pleader, this Court is inclined to set aside the impugned proceedings of the 2nd respondent issued in Na.Ka.No. 521/2010 dated 24.01.2011 and the consequential order passed by the 3rd respondent in Na.Ka. No. UMIPO/E.V/N/ Uthukuili/Ko.Kattu/ No. 224/2011 dated 03.02.2011. However, the 2nd respondent is directed to consider the case of the petitioner afresh, after providing an opportunity to the parties concerned.

7. The Writ Petition is allowed, with the above direction. Consequently, the connected M.Ps are closed. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1. The District Collector
Erode District, Erode.
 2. The Executive Officer
Uthukuli Town Panchayat
Perundurai Taluk, Erode District.
 3. The Assistant Engineer
Tamil Nadu Electricity Board
Uthukuli, Perundurai Taluk, Erode District.
- + 1 cc to M/s. M. Guruprasad, Advocate SR.9667
+ 1 cc to M/s. K. Kumarasamy, Advocate Sr.9733

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NR II (CO)
EU 3.5.17