

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 25.04.2017

CORAM

THE HONOURABLE MR. JUSTICE M.DURAIWAMY

WP.No.25560/2016 & WMP.No.21931/16 & 27059/2016

M.Kaliyaperumal .. Petitioner

Versus

1. The District Collector,
Cuddalore.
2. The Revenue Divisional Officer,
Cuddalore.
3. The Thasildhar,
Cuddalore.
4. Govindan. .. Respondents

Prayer: Petition filed under Article 226 of The Constitution of India, praying for the issuance of Writ of Certiorari calling for the records of the 3rd respondent in his order in Na.Ka.F 3071/2016 dated 27.06.2016, sent to the petitioner on 08.07.2016, and the proceedings of the 2nd respondent in Na.Ka.A7/2286/2015 dated 21.06.2016 and quash the above two proceedings.

For Petitioner : Mr.N.Suresh

For Respondents : Mr.A.N.Thambidurai,
Special G.P for R1 to R3
Mr.V.J.Arul Raj for R4

O R D E R

The petitioner has filed the above writ petition to issue a writ of certiorari calling for the records of the 3rd respondent in his order dated 27.06.2016 and the proceedings of the 2nd respondent dated 21.06.2016 and to quash the said proceedings.

2. By the impugned order dated 27.06.2016, the 3rd respondent / Tahsildar had declared the title of the 4th respondent. The 4th respondent gave representation before the respondents 2 and 3 separately for recovery of the possession of the property in RS.No.81/9D measuring an extent of 0.13.0 ares out of 0.35.0 ares. Pursuant to the representation, the 3rd respondent issued a notice dated 22.07.2015 under which the petitioner was called upon to appear for enquiry at the instance of the 4th respondent. Challenging the said notice, the petitioner filed a writ petition in WP.No.28999/2015 and this Court, by order dated 10.03.2016, disposed of the writ petition recording the submission made by the learned counsel for the 4th respondent that it would be suffice that the land in question is surveyed by the 3rd respondent. The 3rd respondent / Tahsildar herein was directed to survey the land in question, after conducting an enquiry in this regard and pass appropriate orders in accordance with law after affording due opportunity of personal hearing to the petitioner as well as to the 4th respondent. Thereafter, subsequently, the 4th respondent gave a representation to the 2nd respondent again for recovery of possession and the 2nd respondent issued notice to the petitioner and the 4th respondent to appear before him for enquiry. Thereafter, on 27.06.2016, the 3rd respondent passed the impugned order virtually declaring the title in favour of the 4th respondent. The 3rd respondent has no authority or jurisdiction to decide the title of the parties in the case on hand. The 3rd respondent, beyond his jurisdiction, had gone into the dispute with regard to the title of the property and decided the title in favour of the 4th respondent. The declaration of title can be granted only by a competent civil court and not by the Tahsildar. In respect of the order passed by this Court on 10.03.2016, the 3rd respondent Tahsildar had passed the impugned order declaring the title in favour of the 4th respondent, The direction in the writ petition in WP.No.28999/2015 was to survey the land after giving opportunity of personal hearing to the parties and ignoring the direction, the Tahsildar had decided the title in favour of the 4th respondent which cannot be allowed to stand.

3. In these circumstances, the writ petition is allowed and the impugned order dated 21.06.2016 passed by the 2nd respondent is hereby quashed. Similarly, the proceedings of the 1st respondent dated 27.06.2016 is also quashed.

4. This Court directs the 3rd respondent Tahsildar to survey the lands as directed by this Court in the order dated 10.03.2016 in WP.No.28999/2015 and pass necessary orders with regard to the survey of the land only. The 3rd respondent is directed to complete the exercise within a period of four weeks from the date of receipt of a copy of this order. The 3rd respondent is directed to survey the land and fix the

boundary stones in the disputed land after giving notice to the petitioner and the 4th respondent. The 4th respondent is directed to pay the necessary fees before the 3rd respondent for conducting survey and to fix the boundary stones in the land. No Costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Asst.Registrar (CS VIII)

/true copy/

Sub Asst. Registrar

sk

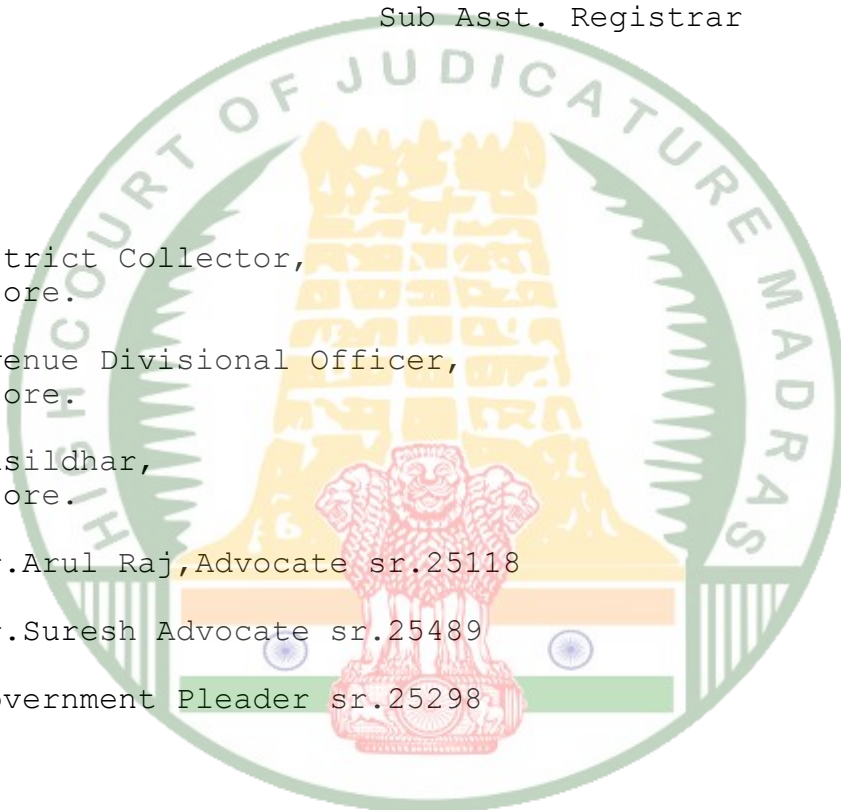
To

1. The District Collector,
Cuddalore.
2. The Revenue Divisional Officer,
Cuddalore.
3. The Thasildhar,
Cuddalore.

+1cc to Mr.Arul Raj, Advocate sr.25118

+1cc to Mr.Suresh Advocate sr.25489

+1cc to Government Pleader sr.25298



सत्यमेव जयते

WP.No.25560/2016

&

WMP.No.27059/2016

mg(co)
ss(5/5/2017)

WEB COPY