

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.12.2017

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

AND

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.A.No.1379 OF 2016

Kala Jayachandran ... Appellant/3rd party

versus

1.Ganapathy Santha Roche

2.The Tahsildar,
Velachery Circle,
Taramani,
Chennai 601 113

...Respondents/Writ Petitioner/
Respondents

Appeal filed against the order passed by this Court dated 26.7.2016 passed in W.P.No.25938 of 2016.

WP.NO.25938/16:

Writ Petition filed Under Article 226 of the Constitution of India seeking writ of mandamus Directing the respondent to consider the petitioner representation dated 5.10.2015 and consequently direct the respondent to issuance of patta in petitioner name in respect of Land Survey No.317/1 (Part) which is total extent of 3 Grounds 1200 sq.ft.

For appellant : Mrs.Chitra Sampath, Senior Counsel,
for M/s.T.S.Baskaran

For Respondents : Mr.N.Manokaran,
for Mr.J.Ram, for R-1
Ms.A.Srijayanthi, Spl.G.P., for R-2

J U D G M E N T

(made by K.K.SASIDHARAN, J.)

The writ petition filed by the first respondent without impleading the appellant as a party was entertained by the learned Single Judge and a direction was issued to the Tahsildar, Taramani Taluk, Chennai, to consider the

representation submitted by her for issuance of patta, in respect of the land in S.No.317/1 part, Velacherry Village, Saidapet Taluk. Feeling aggrieved by the said order, the appellant, calling herself as an aggrieved person, has filed this intra court appeal.

2. The learned Senior Counsel for the appellant contended that the land in S.No.317/1 (part) is in the ownership and possession of the appellant. According to the learned Senior counsel, the appellant obtained injunction in respect of the subject property in O.A.Nos.937 and 938 of 2010 in C.S.No.760 of 2010. Since the first respondent was not a party, the appellant has filed an application to implead her as a party to the civil suit. The learned Senior counsel contended that it would not be legally correct to permit the Tahsildar to proceed with the enquiry in view of the pendency of the civil suit relating to title.

3. The learned counsel for the first respondent on the other hand contended that the first respondent is not claiming the property, which is stated to be in the ownership and possession of the appellant. According to the learned counsel, it is within the province of the Tahsildar to consider the question regarding patta and as such, the learned Single Judge was correct in directing the statutory authority to consider the matter on merits.

4. There is a dispute with respect to the land in S.No.317/1 part, Velacherry Village, Saidapet Taluk. The first respondent claimed that she is in ownership and possession of the land. Since patta was not given by the Tahsildar, she has filed a writ petition in W.P.No.25938 of 2016. The first respondent for reasons best known, failed to implead the appellant as a party to the writ petition. The learned Single Judge directed the Tahsildar to consider the question of issuance of patta to the first respondent.

5. There is a civil suit pending before this court in C.S.No.760 of 2010. According to the appellant, S.V.R.Builders and Promoters, agent of the first respondent is a party to the civil suit in C.S.No.760 of 2010. Even then, the writ petition was filed without impleading the appellant as a party. The appellant appears to have taken steps to implead the first respondent as a party to the civil suit in C.S.No.760 of 2010. The appellant has already obtained interim orders against the agent of the first respondent. Since the civil suit is pending,

there is no question of directing the Tahsildar to proceed with the statutory proceedings relating to patta.

6. We direct the Tahsildar, Taramani Taluk, to keep the patta proceedings in abeyance till the disposal of the civil suit in C.S.No.760 of 2010. It is open to the parties to approach the civil court for appropriate interim relief including maintaining the status quo.

7. The intra court appeal is disposed of with the above direction. No costs. Consequently, C.M.P.No.17899 of 2016 is closed.

Sd/-
Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

tar

To
The Tahsildar,
Velachery Circle,
Taramani,
Chennai 601 113

+2cc to Mr.T.S.BASKARAN Advocate, S.R.No. 85714
+2cc to Mr.M.RAMESH, Advocate, S.R.No. 85458
+1cc to the Government Pleader, S.R.No. 86368

W.A.No.1379 OF 2016

GJ(CO)
TR(10/01/2018)

WEB COPY