

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.11.2017

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition No.42507 of 2016

and

WMP Nos.36402 and 36403 of 2016

1.Maragatha Meenakshi

2.R.Thangaraj

3.R.Chinnaponnu

.. Petitioners

Vs.

1.State of Tamilnadu,

Rep. by Addl. Chief Secretary to Govt.

Industries (MME-2) Department,

Secretariat, Fort St.George,

Chennai 600 009.

2.The Commissioner of Geology and

Mining, Govt. of Tamilnadu,

Guindy, Chennai 600 032.

3.The District Collector,

Krishnagiri District, Krishnagiri.

4.The District Revenue Officer,

Krishnagiri District, Krishnagiri.

5.The Revenue Divisional Officer,

Krishnagiri District, Krishnagiri.

6.Tahsildar, Krishnagiri District,

(Bargur), Krishnagiri.

7.Shri A.Ameed

.. Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of certiorarified mandamus to call for the records of the first respondent herein made in G.O.(3D) No.25 dated 15.2.2016, quash the same and forbear the 7th respondent herein from carrying out quarrying operations, with respect to land in Survey No.377/2 in Sentharapalli Village, Bargur Taluk and District.

For Petitioner : Mr.K.Chandrasekharan
For Respondents : Mr.A.Kumar for R1 to R6
Special Government Pleader
Mr.V.Raghavachari for R7

O R D E R

The present writ petition is filed challenging the order of the first respondent made in G.O.(3D) No.25 dated 15.02.2016 and consequently to forbear the fourth respondent from carrying the quarry operation with respect to the land in Survey No.377/2 in Sentharapalli Village, Bargur Taluk and District.

2.Heard Mr.K.Chandrasekharan, learned counsel for the petitioner, Mr.A.Kumar, learned Special Government Pleader appearing for the respondents 1 to 6 and Mr.V.Raghavachari, learned counsel appearing for the seventh respondent.

3.The petitioners, claiming to be the owners of the subject matter property, for which quarrying permission is granted to the seventh respondent under the impugned proceedings, have chosen to challenge such permission specifically by contending that a patta proceedings between the parties viz., the petitioners on one side and brother of the seventh respondent on another side is pending and therefore, the impugned order granting permission to the seventh respondent to quarry ought not to have been granted.

4.Learned counsel for the petitioners vehemently contended that neither the seventh respondent nor his brother is the owner of the property and on the other hand, the petitioners are having title to the same.

5.On the other hand, the learned counsel for the seventh respondent submitted that a suit filed by these petitioners in O.S.No.200 of 1993 on the file of the District Munsif Court, Krishnagiri, that too, for bare injunction came to be dismissed as early as on 23.09.1997 and therefore, there is no title dispute between the parties and thus, the impugned order granting permission to the seventh respondent cannot be questioned by these petitioners.

6.The third respondent filed a counter affidavit stating that the subject lands are under the possession of the seventh respondent and he is paying land revenue of the subject lands.

7.From the respective claim made by the parties viz., the petitioners on one hand and the seventh respondent on the other hand, it is evident that both the parties are claiming title to

the subject matter land and only a patta proceedings in respect of the said land is pending before the Revenue Authorities, in the absence of any civil proceedings culminated into a decree granting title in favour of any of the party.

8.No doubt, the suit filed by these petitioners in O.S.No.200 of 1993 was dismissed for default on 23.09.1997. But perusal of the said decree would only show that the same pertains to the relief of bare injunction sought for by these petitioners, without there being any relief sought for declaration of title. Needless to say that when both parties are claiming title to the property, it is necessary for any of them to approach the Civil Court to establish their title in the manner known to law. It is also well settled that a patta granted to any of the parties cannot be construed as a document of title. Therefore, this Court, at this stage, without expressing any view on the claim of title made by the respective parties to the subject matter land, is inclined to relegate the parties to go to the Civil Court to agitate the matter by filing appropriate and comprehensive suit. Accordingly, this Court directs the parties to approach the competent Civil Court and establish their respective title. As and when they succeeded, it is open to the parties, who succeed before the Civil Court, to approach the first respondent and seek for the consequential relief. Needless to say that the parties before the Civil Court are also entitled to seek any interim relief permissible under law. With the above observation, the writ petition is disposed of. No costs. The connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

vri

To

1.State of Tamilnadu,
Rep. by Addl. Chief Secretary to Govt.
Industries (MME-2) Department,
Secretariat, Fort St.George,
Chennai 600 009.

2.The Commissioner of Geology and
Mining, Govt. of Tamilnadu,
Guindy, Chennai 600 032.

3.The District Collector,
Krishnagiri District, Krishnagiri.

4.The District Revenue Officer,
Krishnagiri District, Krishnagiri.

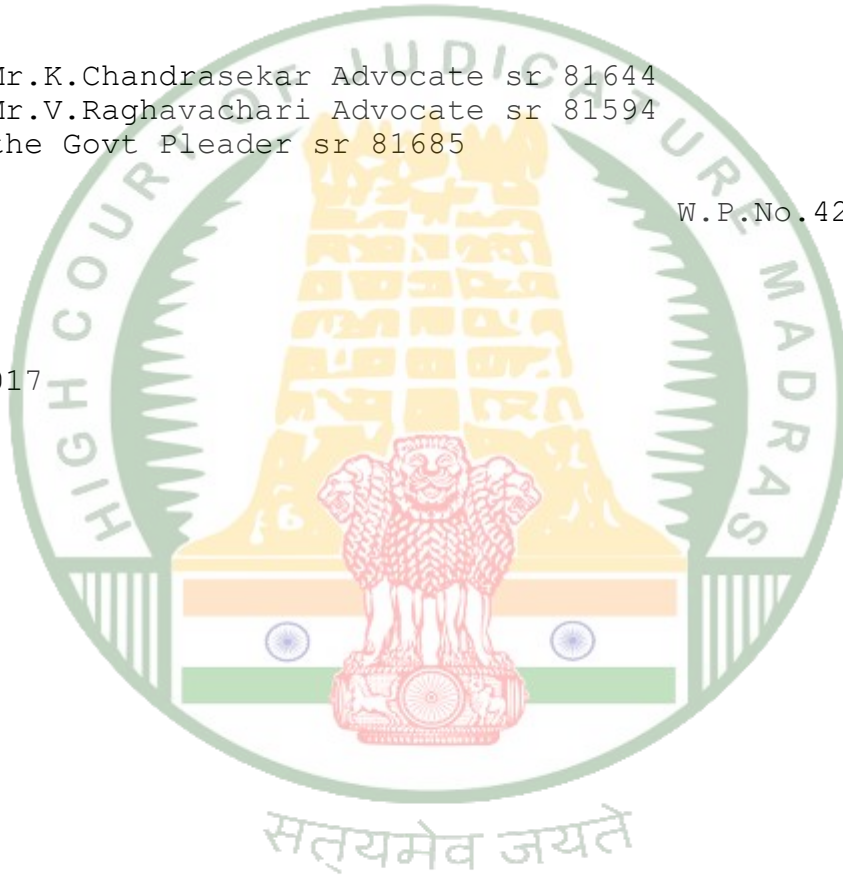
5.The Revenue Divisional Officer,
Krishnagiri District, Krishnagiri.

6.Tahsildar, Krishnagiri District,
(Bargur), Krishnagiri.

+2 cc to Mr.K.Chandrasekar Advocate sr 81644
+1 cc to Mr.V.Raghavachari Advocate sr 81594
+1 cc to the Govt Pleader sr 81685

W.P.No.42507 of 2016

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