

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED : 23.10.2017

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

WEB COPY

W.P. (MD) No.13898 of 2017**and****W.M.P (MD) Nos.10834 & 12656 of 2017**

S.Alwin

... Petitioner

Vs.

1. The Collector,
Thoothukudi District.
2. The Tahsildar,
Taluk Office, Srivaikundam,
Thoothukudi District.
3. The Taluk Surveyor
Thevaseyal Puram, Srivaikundam Taluk,
Thoothukudi District.
4. The Village Administrative Officer,
Keelavalla Nadu, Ellainayakkanpatti,
Thoothukudi District.
5. K.S.Courtallam
6. K.Krishna Moorthi
- 7.M.Gopala Krishnan
8. M.Kali Rajan

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records relating to Na.Ka.No.8, Complaint No.86/17, 87/,17, 88/17, 89/17 dated 18.07.2017 on the file of 1st and 2nd Respondent and quash the same and direct the 1st and 2nd Respondent not to interfere with the peaceful possession and enjoyment of the petitioner.

For Petitioner : Mr.G.Murugendran

For Respondents : Mr.T.S.Mohamed Mohideen,

Additional Government Pleader
for R.1 to R.4

Mr.T.Selvam for R.5 to R.8

**ORDER**

This writ petition has been filed by the petitioner, seeking a writ of Certiorarified Mandamus, to quash the impugned notice in Na.Ka.No.8, Complaint No.86/17, 87//17, 88/17, 89/17 dated 18.07.2017 and to direct the official respondents not to interfere with the peaceful possession and enjoyment of the property by the petitioner.

2. Heard the learned counsel for the parties.

3. The case of the petitioner is that he and his family members are in possession and enjoyment of the properties and his father had initially executed a Power of Attorney in favour of one Chandran, who in turn on the same day of execution of Power of Attorney entered into a sale agreement with a third party and several other persons using forged deeds. All these facts came to light after the demise of his father and after receipt of notice from the 3rd respondent. It is the further case of the petitioner that with regard to this subject matter, already a writ petition in W.P(MD)No.14502 of 2016 came to be filed by him and an interim order was also obtained as early as on 10.08.2016. Suppressing the same, several writ petitions have been filed by the other respondents, in which a common order dated 27.06.2017 had been passed and based on the same, the present impugned notice came to be issued, requiring the petitioner and other family members to prove their title and right over the properties. Aggrieved by such notice, the petitioner is before this Court.

4. It is not in dispute that this Court on earlier occasion by order dated 10.08.2016 made in W.P(MD)No.14502 of 2016 had issued an interim direction to the Taluk Surveyor to look into the issue as per law and proceed further after issuance of notice to all the concerned parties as mandated under the relevant provisions of law. It is now brought to the notice of this Court that original suits in O.S.Nos.114 to 117 of 2016 on the file of the District Munsif Court, Srivaigundam, touching upon the rights of the respective parties, are pending.

5. Since the Civil Court has seized of the matter, any observation made by this Court will certainly affect the rights of either parties in one way or the other and it is for the concerned Civil Court to decide the issue relating to the properties in question. It is an admitted fact that the impugned order is nothing, but a notice, calling upon the petitioner and others to put forth their defense by producing material documents.

6. Hence, the petitioner is directed to appear before the 3rd respondent in response to the impugned notice along with the relevant documents to substantiate his title, within a period of



two weeks from the date of receipt of a copy of this order and on such appearance, the respondents, more particularly the 3rd respondent, after hearing the petitioner and all the necessary parties, including R5 to R8 and perusing the documents to be produced by them, shall consider the same and pass appropriate orders on the subject matter, within a period of four weeks thereafter, in line with the relevant provisions of the Tamil Nadu Survey and Boundaries Act, 1923 and also keeping in mind the order of this Court dated 10.08.2016 as well as the pendency of the suits, referred to above.

7. With the above direction, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar()

/True Copy/

Sub Assistant Registrar

To

1. The Collector,
Thoothukudi District.
2. The Tahsildar,
Taluk Office,
Srivaikundam,
Thoothukudi District.
3. The Taluk Surveyor
Thevaseyal Puram,
Srivaikundam Taluk,
Thoothukudi District.
4. The Village Administrative Officer,
Keelavalla Nadu,
Ellainayakkanpatti,
Thoothukudi District.

+1cc to M/S.G.MURUGENDRAN, Advocate SR.No.83119.
+1cc to M/S.T.SELVAN, Advocate SR.No.83149.
+1cc to Special Government Pleader, SR.No. 83303.

W.P. (MD) No.13898 of 2017
23.10.2017