



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED 24.04.2017

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THE HONOURABLE MR.JUSTICE V.PARTHIBAN

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W.P (MD) No.4112 of 2017
and W.M.P (MD) Nos.3270 and 3271 of 2017

M.Chellapandy

..Petitioner

Vs

1.The Tahsildar, Manamadurai Taluk,
Sivagangai District.

2.The Sub-Inspector, Manamadurai Taluk,
Survey Department, Sivagangai District.

3.R.Sethuraman

..Respondents.

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned memo issued by the second respondent in his proceedings Nil dated 6.3.2017 and to quash the same as illegal and consequently to direct the respondents 1 and 2 to consider the objection made by the Petitioner through his legal notices dated 23.2.2017 and 29.6.2016 and pass orders in accordance with law in respect of measuring the land in Survey No.270/2C2, measuring an extent of 5 acres and 82 cents situated in Vellikiurichi Village, Manamadurai Taluk, Sivagangai District.

For Petitioner :Mr.G.R.Swaminathan
for M/s.N.Satheeshkumar
For Respondents :Mr.D.Muruganandam
1 and 2 Addl. Govt. Pleader
For Respondent-3 :Mr.E.Om Prakash
Senior Counsel
for M/s.Vast Law Associates

ORDER

The Petitioner has approached this Court seeking issuance of a Writ of Writ of Certiorarified Mandamus calling for the records relating to the impugned memo issued by the second respondent in his proceedings Nil, dated 6.3.2017 and to quash the same as illegal and consequently to direct the respondents 1 and 2 to consider the objection made by the Petitioner through his legal notices dated 23.2.2017 and 29.6.2016 and pass orders in accordance with law in respect of measuring the land in Survey No.270/2C2, measuring an extent of 5 acres and 82 cents situated in Vellikurichi Village, Manamadurai Taluk, Sivagangai District.



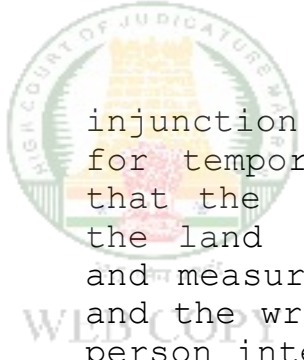
2. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

3. According to the Petitioner, that on the date of agreement, a sum of Rs.30 lakhs was paid to the third respondent, as advance. According to the averments, that the Petitioner has also made developments in the land which is the subject-matter of the sale agreement. According to the Petitioner, that the third respondent was not willing to go through the sale as per sale agreement and was attempting to dispossess the Petitioner, which fact has been disputed by the learned counsel for the third respondent. In the said circumstances, the Petitioner had filed a Civil Suit in O.S.No.161 of 2016 before the Sub-Court, Sivagangai seeking the relief of permanent injunction against the third respondent and an I.A was also filed for temporary injunction. However, the said I.A was dismissed on 31.1.2017. According to the averments, the Petitioner was taking steps to challenge the dismissal order of the I.A before the appellate Court.

4. While matter stood thus, the third respondent is said to have submitted an application before the first respondent to measure and demarcate the property in Survey No.270/2C2, measuring an extent of 5 acres and 82 cents situated in Vellikurichi Village, Manamadurai Taluk, Sivagangai District, which was the subject-matter of the suit in O.S.No.161 of 2016. In response, the second respondent issued the impugned proceedings dated 6.3.2017, notifying the date of survey of the subject land on 10.3.2017, at 10.00 a.m. Notice was also issued to one Ramasamy, who is the adjacent land owner for getting his objections. The petitioner is before this Court challenging the notice issued by the second respondent stating that they have already filed suit before Sub-Court, Sivagangai which would affect the interest of the Petitioner, if the respondents 1 and 2 are allowed to measure the land at the instance of the third respondent.

5. According to the learned counsel for the Petitioner, that when the suit is pending before the Court for permanent injunction, the second respondent's action to go ahead with the measurement of the land is impermissible. In support of the contention, the learned counsel relied upon a decision of this Court in W.P.No.12144 of 2017, dated 3.12.2015. According to the learned counsel for the Petitioner, that this Court has held that when a civil suit is pending in respect of the subject-matter land, the Revenue Officials cannot order surveying and demarcating the property.

6. The learned Senior Counsel appearing for the third respondent submitted that the said civil suit is for declaration of title and for consequential relief and as far as the present suit is concerned, it is only for permanent



injunction. Even otherwise, I A which was filed by the Petitioner for temporary injunction was dismissed, which would demonstrate that the claim of the petitioner that he was in possession of the land is not confirmed. Moreover, the notice for surveying and measuring the land has been issued to the parties concerned and the writ petitioner, who is not the owner of the land or any person interested in it, cannot find fault with the notice merely on the premise that he was an agreement-holder. In any event, no prejudice would be caused to the Writ petitioner if he is also permitted to raise any objection before the second respondent, who will discharge his duties in pursuance of the impugned notice, dated 6.3.2017.

7. In that view of the above narrative, I am of the considered view that the Writ Petition lacks merit and substance and therefore, the same has to necessarily fail. It is open to the second respondent to go ahead with the survey measurement and demarcation of the land in question after giving notice to the parties concerned and a report may be prepared on the basis of the said exercise within a period of eight weeks from the date of receipt of a copy of this order.

8. In the circumstances, the writ Petition stands dismissed. Consequently, connected Miscellaneous Petitions are dismissed. No costs.

Sd/-

Assistant Registrar (P AND A)

/True Copy/

Sub Assistant Registrar

vsn

To

1. The Tahsildar, Manamadurai Taluk, Sivagangai District.
2. The Sub-Inspector, Manamadurai Taluk,
Survey Department, Sivagangai District.

1CC TO MR. N. SATHEESH KUMAR, ADVOCATE SR: 53632

1CC TO M/S. VASI LAW ASSOCIATES, ADVOCATE SR: 53885

1CC TO THE SPL GOVT PLEADER SR: 53955

KK RSK SAR 3/27/04/2017 3P 6C

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