



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.06.2017

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.A.(MD) No.1066 of 2013

and

M.P.(MD) No.1 of 2013

Pandian

... Appellant

-vs-

1.P.Varatha Naicker

2.The District Collector
Karur District, Karur

3.The Project Officer
Office of the Collectorate
Karur District, Karur

4.The Commissioner
Kadavoor Panchayat Union
Tharagampatty, Kadavoor Taluk
Karur District

5.The Deputy Superintendent of Police
Kulithalai, Karur District

... Respondents

Writ Appeal filed under Clause 15 of Letters Patent, to set aside the order dated 20.04.2011 in W.P.(MD).No.1520 of 2011, on the file of this Court.

Prayer in WP(MD). 1520/ 2011 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the 3rd respondent to implement his order in Na.Ka.NO. A2/614/2010 dated 27/08/2010 with the help of the 4th respondent and consequently remove the petitioner's small hut and construct the concrete permanent house in Natham Survey No. 392/8B in Patta No. 566 an extent of 0.25 Cents situate in Parapatty, Vellapatty village, Kadavoor Panchayat Union of Kadavoor taluk, Karur district.



For Respondents

: Mr.K.Asok Kumar Ram for R1

Mr.V.Muruganatham

Additional Government Pleader for R2 to R5

J U D G M E N T

WEB COPY

[Judgment of the Court by T.S.SIVAGNANAM, J.]

The appellant, who is a third party to the proceedings is aggrieved by the order, dated 20.04.2011, made in W.P.(MD).No.1520 of 2011, filed by the first respondent herein.

2. The first respondent / writ petitioner filed the said writ petition seeking a direction upon the respondents 2 to 5 to implement the order, dated 27.08.2010, passed by the Commissioner, Kadavoor Panchayt Union / fourth respondent, so as to enable him to construct a permanent house in the property, comprised in Natham Survey No.392/88, measuring an extent of 0.2.5 Cents, situated in Vellapatty Village, Kadavoor Panchayat Union, by availing the benefits of the Scheme promulgated by the then Government. The said writ petition was disposed of by the impugned order, dated 20.04.2011.

3. The appellant, who is a third party to the proceedings, would contend that the property, which is claimed by the first respondent as his property, is in fact the absolute property of the appellant. It is further submitted that taking advantage of the similarity of the name, the first respondent has somehow managed to obtain Patta in his name. Further, it is submitted that though the first respondent filed a civil suit, in O.S.No.197 of 2010, before the learned District Munsif, Kulithalai, after obtaining orders from this Court, he has withdrawn the said suit. Therefore, the appellant seeks for setting aside the order passed in the writ petition.

4. After hearing the learned counsel for the parties and perusing the materials placed on record, we find that based on a Patta, which was granted in favour of the first respondent, the Government passed orders sanctioning financial assistance to him to construct a house in the said property. If, according to the appellant, he is the absolute owner of the property, his remedy is before the Civil Court. However, one of the apprehension expressed by the appellant is that the first respondent may take advantage of the observations made by the Writ Court in the impugned order, dated 20.04.2011 and therefore, adequate safeguards may be made to the appellant to enable him to pursue his civil remedy.

5. In the light of the above, liberty is given to the appellant to approach the Civil Court for appropriate declaratory relief and if the appellant moves the Civil Court, the Civil Court shall decide the same based on the oral and documentary evidence produced before the Court and without being influenced by the observations made by the Writ Court, in the order dated 20.04.2011.



6. The writ appeal is disposed of with the above observations.
No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To:

1. The District Collector,
Karur District, Karur.

2. The Project Officer,
Office of the Collectorate,
Karur District.

3. The Commissioner,
Kadavoor Panchayat Union,
Tharagampatty, Kadavoor Taluk,
Karur District.

4. The Deputy Superintendent of Police,
Kulithalai, Karur District.

+1cc to M/s. K.ASHOK KUMAR RAM Advocate in SR. No.59904

+1cc to M/s.G.SRIDHARAN Advocate in SR. No.60008

+1cc to Mr.SPECIAL GOVERNMENT PLEADER in SR. No.60190

IA/KRK

JS/KP/SAR.2/21.6.2017/3P-8C

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