

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:05.02.2018

CORAM

THE HONOURABLE MR. JUSTICE M.VENUGOPAL
AND
THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

C.M.P.NO.2027 OF 2018
IN
W.A.SR.NO.4296 OF 2018

N.Nallakumar .. Petitioner/Appellant
Vs.

1.N.Annadurai
2.The District Revenue Officer,
Salem.
3.The Tahsildar,
Salem West Taluk,
Salem. ..Respondents/Respondents

Prayer: Petition filed under Section 151 of the Civil Procedure Code, praying to grant leave to the Petitioner to file the above Writ Appeal (SR).4296 of 2018 against the order passed by this court dated 17.08.2017 in W.P.No.21823 of 2017 filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the Respondents 1 and 2 to consider the petitioners representation dated 13.07.2017 to issue patta in respect of property in Survey No.117/2A having Patta No.297 measuring total extent of acres 2 cents 14 in Manamangalam Village Tharamangalam Sub Registrar Office Salem District

For Petitioner : Mr.K.Selvaraj
For Respondents 2nd and 3 : Mr.A.N.Thambidurai
Special Government Pleader

ORDER

[Order of the Court was made by S.VAIDYANATHAN]

This Miscellaneous Petition is taken up for final disposal and the notice to the 1st Respondent is dispensed with.

2.From the narration of the facts, it is clear that there appears to be a family dispute. The petitioner stating that he is one of the persons interested in the property and that he must be heard and suppressing the fact before the Learned Single

Judge, obtained orders on 17.08.2017 in W.P.No.21823 of 2017 and hence, the Appeal need to be heard and the orders passed in the writ petition has got to be interfered with.

3.A glance of the order passed by the Learned Single Judge dated 17.08.2017 in W.P.No.21823 of 2017, more particularly, in paragraphs 4 and 5 of the order, which are extracted below, which would make it very clear that the Learned Single Judge delving upon the merits of the averments made by the writ petitioner.

"4.Mr.E.Balamurugan, learned Additional Government Pleader appearing for the respondents submitted that the 2nd respondent may be directed to consider and pass orders on the petitioner's representation dated 13.07.2017, in accordance with law, after giving notice to all the interested parties.

5.Having regard to the submission made by the learned counsel on either side, without expressing any opinion with regard to the merits of the case, I direct the 2nd respondent to consider the petitioner's representation dated 13.07.2017 for the issuance of patta and pass orders in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order, after giving notice to all the interested persons."

4.However, the order of the Learned Single Judge is very clear that all the parties who are interested in the averment made by the petitioner need to be heard by the Tahsildar and a decision should be arrived at. If the Petitioner herein is also an interested person, there is no hurdle on the part of the Tahsildar/Authority to hear him and pass appropriate orders. Under the guise of seeking Leave, he cannot stall the proceedings before the Tahsildar and this Court finds that there is no merit to grant relief sought for by the petitioner.

5.Accordingly, the Civil Miscellaneous Petition is dismissed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

Sgl

To

1. The District Revenue Officer,
Salem.

2. The Tahsildar,
Salem West Taluk, Salem.

+1cc to Mr.K.Selvaraj, Advocate, S.R.No.8794

+1cc to the Government Pleader, S.R.No.9371

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GR (CO)
CS/27/02/18



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