

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 22-10-2018

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.17208 of 2013

K.Ekambaram

.. Petitioner

Vs

1.The District Collector,
Chennai District,
Singaravelan Maligai,
Chennai-600 001.

2.The Revenue Divisional Officer,
Singaravelan Maligai,
Chennai-600 001.

3.The Tahsildar,
Egmore-Mylapore,
Chennai-600 004.

4.The Commissioner of Corporation,
Chennai Corporation,
Park Town,
Chennai-600 003.

5.Revenue Officer (Proper Tax Assessment),
Rippon Building,
Chennai Corporation,
Park Town,
Chennai.

6.G.Gandhimathi

.. Respondents

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India for the issuance of a Writ of Mandamus, directing the respondents 1 to 3 to dispose the representation dated 11.6.2013 with reference to the final decree and judgment in O.S.No.4449 of 1995 dated 29.1.2004 of IX Assistant City Civil Court, Chennai confirmed by the Principal Judge of the City Civil Court, Chennai in A.S.No.457 of 2004 dated 4.2.2005

For Petitioner : Mr.G.Thangavel
For Respondents-1to3 : Mr.R.S.Selvam,
Government Advocate.
For Respondents-4&5 : Ms.Karthikaa Ashok
For Respondent-6 : Mr.O.R.Abul Kalaam

O R D E R

The relief sought for in the present writ petition is for a direction to direct the respondents 1 to 3 to dispose of the representation submitted by the writ petitioner on 11.6.2013 with reference to the Final Decree and Judgment in O.S.No.4449 of 1995 dated 29.1.2004 on the file of the IX Assistant City Civil Court, Chennai, confirmed by the learned Principal Judge of the City Civil Court, Chennai in A.S.No. 457 of 2004 dated 4.2.2005.

2. The very relief sought for in the present writ petition is absolutely misconceived. No writ petition can be entertained to implement the decree passed in a civil suit. The procedures for execution of the civil court decrees are contemplated under the Code of Civil Procedure and therefore, such an exercise can never be done by the Constitutional Courts under Article 226 of the Constitution of India.

3. The very relief sought for in the present writ petition is that the writ petitioner filed a representation based on the decree granted in the civil suit, which was confirmed by the Appellate Court in the First Appeal. For implementing such Final Decree and Judgment, cannot be a ground to issue directions to the respondents to consider the representation. The other way of coining the prayer in a writ proceeding under Article 226 of the Constitution of India, cannot be entertained and this Court is of an opinion that the Civil Court Judgments and Decrees are to be executed in the manner known to law.

4. The learned counsel, appearing on behalf of the writ petitioner, states that the sixth respondent is in possession of 100 sq. feet of land alone and the writ petitioner is in possession and enjoyment of the balance portion of the land. All such merits and the demerits can never be adjudicated in the writ proceedings, as the same requires establishment of documents and evidences.

5. Thus, even for issuing directions to consider the representation, the writ petitioner should establish his legal

right. Undoubtedly, the judgment and decree may be a right for the writ petitioner. However, it is clarified that the judgment and the decree is in relation to the permanent injunction and not in connection with the title and ownership of the immovable property in question. In respect of title or ownership, the parties aggrieved must approach the Competent Civil Court of Law for the purpose of establishing their legal right and redress their grievances.

6. This being the legal principles to be followed, the writ petitioner cannot simply file a writ petition with a prayer for a direction to direct the respondents to consider the representation based on the judgment and the decree passed by the Civil Court. The Civil Court Decree, more-so, is for permanent injunction and not in relation to the title and ownership of the property. In the absence of establishing the title and ownership before the Competent Civil Court of Law, the parties may not be having any right to claim the property by way of representations.

7. Accordingly, it is left open to the parties concerned to approach the Competent Civil Court of Law for the redressal of their grievances by producing all original documents and by adducing evidences in the manner prescribed under law. However, the writ petitioner has not established any legal right for the purpose of issuing directions to consider the representation.

8. Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

Svn

To

1.The District Collector,
Chennai District,
Singaravelan Maligai,
Chennai-600 001.

2.The Revenue Divisional Officer,
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Chennai-600 001.

3.The Tahsildar,
Egmore-Mylapore,
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4.The Commissioner of Corporation,
Chennai Corporation,
Park Town,
Chennai-600 003.

5.Revenue Officer (Proper Tax Assessment),
Rippon Building,
Chennai Corporation,
Park Town,
Chennai.

+1cc to Mr.G.Thangavel, Advocate Sr.No.71723
+1cc to Mrs.Karthikaa Ashok, Advocate Sr.No.71828
+1cc to The Government Pleader, Sr.No.72422

WP No.17208 of 2013

RSI(CO)
CSL/12.11.2018



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