

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26/2/2018

C O R A M

THE HON'BLE MR.JUSTICE S.MANIKUMAR
AND
THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Writ Petition No.3978 of 2018

Mrs.Dorcas Sharma

... Petitioner

Vs

1. The District Collector
Collector's Office
Thiruvallur District.
2. The Tahsildar
Taluk Office
Avadi
Chennai.
3. The Commissioner
Avadi Municipality
Avadi
Chennai.
4. The Sub-Registrar
Sub-Registrar's Office
Ambattur
Chennai.

5. Shanmugasundaram

6. R. Selvaraj

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of mandamus, directing the respondents 1 to 3 to consider the petitioner's representation dated 31/3/2017 not to disturb the petitioner from the peaceful possession and enjoyment in the S.No.365/1A/1A2, Thirumullaivoyal Village, for an extent of 3000 aq.ft., from the land grabbers 5th and 6th respondents with false documents.

For petitioner ... Mr.S.Radhakrishnan
For respondent ... Mr.R.Udhaya Kumar
for R.R.1, 2 and 4.

Mr.P.Srinivas
for R.3

O R D E R

(Order of the Court was made by S.MANIKUMAR, J)

Material on record discloses that, Mrs.Dorcas Sharma, petitioner herein, has filed a suit, in O.S.No.54 of 2006, on the file of the District Munsif-cum-Judicial Magistrate, Ambattur, for an injunction, restraining V.Shanmugasundram/fifth respondent herein. There was no declaratory prayer, sought for in the suit, in O.S.No.50 of 2009, on the file of the learned District Munsif-cum-Judicial Magistrate, Ambattur. Pending disposal of the suit, petitioner has filed I.A.No.209 of 2006. Vide order, dated 4th April 2006, the learned District Munsif-cum-Judicial Magistrate, Ambattur, allowed the petition and made the interim injunction absolute.

2. R.Selvaraj, the sixth respondent herein, said to have purchased the property from Mr.Shanmugasundaram, the fifth respondent, has filed a suit in O.S.No.50 of 2009, on the file of the learned District Munsif, Tiruvallur, contending inter alia that he had purchased the property from P.Srikrishnamurthy, S/o. Venkatappiah, under a sale deed, dated 6/4/1996. By impleading Dorcas Sharma, R.Selvaraj in the said suit has prayed for (i). a declaration, declaring the plaintiff (R.Selvaraj) title to the suit property that he is the absolute owner in exclusion of defendant and her successors; (ii). consequently directing the defendant to put the plaintiff in possession of the suit property after demolishing the structures thereon and (iii). granting perpetual injunction restraining the defendant, her agents, servants and men thereafter from interfering with the plaintiff's possession and enjoyment of the suit property.

3. Suit appears to have been decreed in favour of R.Selvaraj and consequently, he has filed E.P.No.86 of 2016, on the file of the learned Subordinate Judge, Poonamallee, to order delivery of the premises mentioned in the schedule to the petition and hand over possession to the decree holder, under Order XXI Rule 38 CPC.

4. Schedule of property to E.P.No.86 of 2016 in O.S.No.290 of 2010, is as follows:-

All the piece and parcel of land comprised

in S.No.365/1(part), Sub-divided Survey No.365/1A/1A2 of Thirumullaivoyal Village, Ambattur Taluk, Thiruvallur District, bearing Plot No.223 of Saraswathi Nagar, Chennai 62 bounded on North by Plot No.278, South by Road Raja Street, East by Plot No.222 and West by Plot No.224 measuring North - South on the both side 75 feet East-West on both 40 feet on all admeasuring 3000 sqft of land or thereabouts.

5. Perusal of Execution Petition No.86 of 2016 in O.S.No.290 of 2010, indicates that being aggrieved by the decree, A.S.No.49 of 2013 has been filed, on the file of the Principal District Court, Tiruvallur and that the same has been dismissed, on 19/8/2016. Thus, from the above, it could be deduced that the decree, granting declaration of the above mentioned property, in favour of Mr.R.Selvaraj, has been confirmed.

6. Material on record further discloses that, in respect of the property in S.No.365, Tirumullaivoyal, Avadi Municipality, petitioner seemed to have sought for information. Member Secretary, Chennai Metropolitan Development Authority, Chennai, vide letter dated 10/2/2017, has given the following reply:-

S. No.	Local Body	Village	Block/ Survey/ Sub-Div No.	Land Use	Remarks
1.	Avadi MPT	Thirumullaivoyal	0/365/-	Catchment Area	All the site which lies in the north of CTH road and west of Red hills road in this village falls under Red hills catchment area restricted for development.

It must be clearly understood that this is only by way of information. Any sub-division or construction of building or development in the land in question is not valid in law unless planning permission is applied for and duly granted for that sub-division, construction or development.

7. Thereafter, the petitioner stated to have sent a representation, dated 31/3/2017, to the ChairPerson, Human Rights Commission, Hon'ble Chief Member and several other

authorities, including Police. Petitioner has also sent a petition, to the Inspector of Police, Tirumullaivoyal Police Station, against Shanmugasundaram/fifth respondent and Selvam. Petition in CSR number has been recorded as civil dispute.

8. Contending inter alia that the respondents 5 and 6 are attempting to forcefully remove the petitioner, instant writ petition has been filed for a direction against the respondent, the District Collector, Tiruvallur District, Tahsildar, Chennai and Commissioner Avadi Municipality, respondents 1 to 3, to consider his representation, dated 31/3/2017, and not to disturb him from the peaceful possession and enjoyment, in S.No.365/1A, 1 A2, Thirumullaivoyal Village, for an extent of 3000 sq.ft, from 5th and 6th respondents, described as land grabbers.

9. On the above facts, we have heard the submission of Mr.S.Radhakrishnan, learned counsel for the petitioner.

10. As stated supra, in O.S.No.290 of 2010, Civil Court has granted decree, on 2/7/2013, declaring that Mr.R.Selvaraj, the sixth respondent, as the absolute owner of the property, all that piece and parcel of land comprised in S.No.365/1(part), Sub-divided Survey No.365/1A/1A2 of Thirumullaivoyal Village, Ambattur Taluk, Thiruvallur District, bearing Plot No.223 of Saraswathi Nagar, Chennai 62, bounded on the North by Plot No.278, South by Road Raja Street, East by Plot No.222 and West by Plot No.224 measuring North - South on both side 75 feet, East-West on both 40 feet in all admeasuring 3000 sqft of land or thereabouts.

11. Decree has been confirmed, in A.S.No.49 of 2013, on the file of the learned Principal Judge, Tiruvallur, dated 19/8/2016. Sixth respondent has also filed Execution Petition No.18 of 2016, before the Subordinate Judge, Poonamallee, praying to order delivery of the possession, as stated supra. Now, contending inter alia that property belongs to the Government, petitioner has made a representation to the Chairperson, Human Rights Commission and others.

12. From the material on record, we are of the view that it is only an attempt to thwart the execution of a decree, by seeking for a writ of mandamus, against the respondents 1 to 3. There is no merit in the writ petition. Accordingly, this writ petition is dismissed. No costs.

Sd/-
Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

mvs.

To

1. The District Collector
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Thiruvallur District.

2. The Tahsildar
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Avadi
Chennai.

3. The Commissioner
Avadi Municipality
Avadi
Chennai.

4. The Sub-Registrar
Sub-Registrar's Office
Ambattur
Chennai.

+1CC TO MR.S.Radhakrishnana, Advocate S.R.No.14415

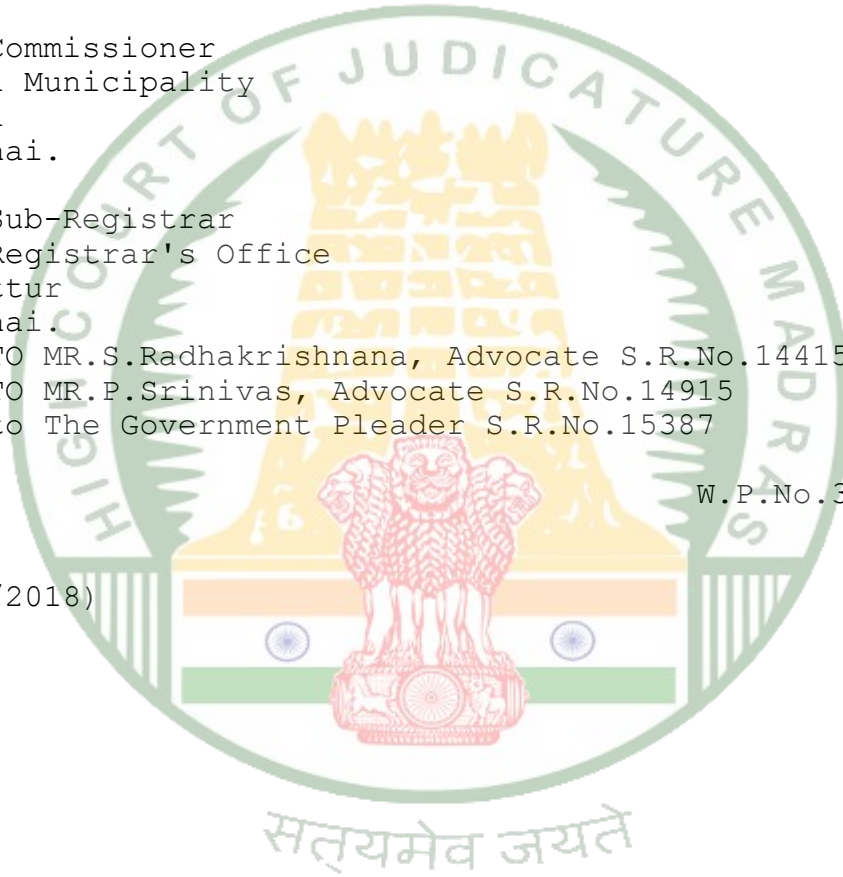
+1CC TO MR.P.Srinivas, Advocate S.R.No.14915

+1cc to The Government Pleader S.R.No.15387

W.P.No.3978 of 2018

MP (CO)

RMP (21/03/2018)



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