

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 16.10.2018

CORAM

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

W.P.No.27503 of 2018
and
W.M.P.No.32016 of 2018

D. Venkatesan

... Petitioner

Versus

1. The Pallavaram Municipality
Rep. by the Commissioner,
Chromepet, Chennai - 600 044.

2. D. Jeyaprakash,
Former Vice Chairman,
Pallavaram Municipality,
No.11/25, Periapalayathamman Koil Street,
Chromepet, Chennai - 600 044.

3. K. Krishnamurthy,
Former Councilor,
Pallavaram Municipality,
No.7, A.K.Nagar Annexe,
Hasthinapuram, Chennai - 600 044.

... Respondents

Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus forbearing the 1st respondent Municipality from in any way claiming any interest or right in the petitioner's property situated at plot No.3, Sri Ram Nagar, Hasthinapuram Village, Tambaram Taluk, Kancheepuram District comprised in S.No.39/6 of Hasthinapuram Village.

For Petitioner : Mr.K.Sakthivel

For Respondents : Mrs.K.Bhuvaneswari
Additional Government Pleader

O R D E R

The petitioner has come up with this Writ Petition to forbear the 1st respondent-Municipality from claiming any

interest or right on his property, situated at plot No.3, Sri Ram Nagar, Hasthinapuram Village, Tambaram Taluk, Kancheepuram District, comprised in S.No.39/6 of Hasthinapuram Village.

2. According to the petitioner, his wife purchased the property vide sale deed dated 25.06.1986 vide Document No.2446 of 1986, registered in the Sub Registrar Office, Pallavaram and thereafter, his wife settled the property in his favour on 14.10.2010 vide Document No.5363 of 2010. Thereafter, the petitioner let out the premises to run a welding and fabricating unit. Suddenly, a notice was put up in the land belonging to the petitioner and on 11.10.2018, the first respondent-Municipality dug a pit of 4x4 sq. ft. in the Petitioner's land. It is the case of the Petitioner that the first respondent-Municipality is trying to grab his property in S.No.39/6, Hasthinapuram Village.

3. It is the further case of the Petitioner that the third respondent, who is the former Councilor, is also trying to usurp his property and that the 1st Respondent-Municipality has no right to claim title to the property situated at Plot No.3, Sree Ram Nagar, Hasthinapuram Village, Tambaram Taluk, Kancheepuram District, comprised in S.No.39/6 of Hasthinapuram Village.

4. Even though no counter has been filed on behalf of the Respondents, learned Additional Government Pleader submitted that the property in question belongs to the 1st Respondent/Municipality and that the Petitioner is an encroacher and is not entitled to any relief, much less seeking disposal of his representation.

5. Heard the learned counsel on either side and perused the material documents available on record.

6. It is not in dispute that there is a Sale Deed dated 25.06.1986 vide Document No.2446 of 1986 and also Settlement Deed dated 14.10.2010 vide Document No.5363 of 2010. The petitioner has not produced any document to show as to how his wife has purchased the property in question from a valid title owner. A reading of the Sale Deed dated 25.06.1986 creates a lot of doubt as to whether the person, who sold the property to the wife of the petitioner has got valid title. The preamble portion of the Sale Deed must have reference to the earlier Sale Deeds, if any and that it should clearly state that the erstwhile owner was owning a property, which was purchased by him/her or devolved upon him/her by way of a document. As the Sale Deed dated 25.06.1986 itself is a doubtful one, it is open to the Respondents to verify the Revenue Records and in case, the Revenue Records are in favour of the petitioner, he shall

not be disturbed. If the Revenue Records are against the petitioner, it is open to the 1st Respondent/Municipality to utilize the property in question for public purposes that are meant for specific purpose. Till the respondents verify the Revenue records, the status-quo as on date shall be maintained.

7. This Court is not inclined to grant the relief as such, sought for by the petitioner, as disposal of the petitioner's representation would end up in further litigations, instead of giving a quietus to the matter.

8. The compliance report with regard to the status of the property may be communicated to the Registrar General of this Court, on or before 10.11.2018.

9. Accordingly, the Writ Petition stands disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

10. Post the matter on 12.11.2018 under the caption "For Compliance".

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

rsi/sai

To

1. The Commissioner,
Pallavaram Municipality
Chromepet, Chennai - 600 044.

2. The Registrar General,
High Court, Madras-104.

+1cc to Mr.K.Sakthivel, Advocate, S.R.No.72803

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VD(CO)
CS/01/11/2018