

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED: 01.02.2018

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MRS.JUSTICE R.HEMALATHA

W.A. (MD)No.215 of 2018
and
C.M.P. (MD)No.1156 of 2018

1.N.Sadasivam

2.N.Nithiyanandham

3.N.Vijayakumar

4.N.Sivanandham

5.C.Mariappan

6.Chithra ... Appellants/3rd Parties
Vs.

1. Rajesh ... 1st Respondent/ Petitioner

2. The District Collector,
Thanjavur District, Thanjavur.

3. The Tahsildar,
Thanjavur Taluk Office,
Thanjavur. ... Respondents 2 & 3/Respondents 1&2

PRAYER: Appeal filed under Clause 15 of the Letters Patent, praying to set aside the order passed by this Court in W.P.(MD) No.15010 of 2017 dated 10.08.2017.

Prayer in WP(MD). 15010/ 2017 :

Writ Petition filed under Article 226 of Constitution of India, praying to issue a writ of Mandamus directing the 2nd respondent to survey the petitioners land in survey numbers 94-2B, 95 & 128-1B situated at 79, Pudupattinam Village, Thanjavur Taluk, Thanjavur District by fixing the boundary pursuant to the petitioner representation dated 07.07.2017 within the time framed fixed by this Honble Court.



For Appellant

: Mr.M.P.Senthil

For Respondents

: Mr.C.Bharathi

for Mr.D.R.Murugesan

for R.1

: Mr.A.K.Baskarapandian

Special Government Pleader

for R.2 and R.3

JUDGMENT

(Judgment of the Court was delivered by M.SATHYANARAYANAN,J.)

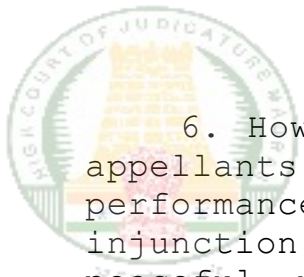
By consent, the writ appeal is taken up for final disposal.

2.Mr.C.Bharathi, learned Counsel for Mr.D.R.Murugesan, accepts notice on behalf of the first respondent and Mr.A.K.Baskarapandian, learned Special Government Pleader accepts notice on behalf of the respondents 2 and 3.

3. It is the claim of the first respondent/writ petitioner in the writ petition that they had purchased a landed property comprising in Survey Nos.94-2B and 128-1B at Pudupattinam Village, Thanjavur Taluk and Thanjavur District and further claims that ever since the date of purchase, he is in possession and enjoyment of the same and a patta has also been transferred in his favour vide proceedings of the Regional Assistant Tahsildar in his proceedings No. T.R.2017/0103/21/056042TR, dated 07.06.2017 and hence, he came forward to file the writ petition praying for issuance of writ of mandamus directing the second respondent viz., the Tahsildar, to survey and measure his land and fix the boundary line based on his representation dated 07.07.2017.

4. The said writ petition came to be disposed of in the admission stage itself and the learned Judge has also observed that without going into the merits of the matter, directed the second respondent to consider and dispose of the representation submitted by the first respondent/writ petitioner on merits and in accordance with law, after providing opportunity to all necessary parties within a period of ten weeks from the date of receipt of a copy of that order.

5. It is also brought to the knowledge of this Court that the said exercise has also been done by the Tahsildar, after issuing notice to all the parties concerned and according to the learned Counsel for the first respondent/writ petitioner, in the light of the said development, nothing survives for adjudication in this writ appeal.



6. However, Mr.M.P.Senthil, learned Counsel appearing for the appellants would contend that admittedly suits for specific performance are pending and the applications for ad-interim injunction restraining the defendants from interfering with the peaceful possession and enjoyment of the plaintiff are also pending and necessary steps have already been taken to implead the first respondent/writ petitioner as a party to the litigation and though he was aware of the said development, he has deliberately suppressed the said fact and the order passed in the writ petition may be utilized to his defence and therefore, prays for appropriate orders protecting their interest.

7. Mr.A.K.Baskarapandian, learned Special Government Pleader appearing for the respondents 2 and 3 would contend that the Tahsildar, Thanjavur had issued notice to all the persons concerned and then only taken exercise in compliance of the order passed by this Court.

8. This Court has carefully considered the rival submissions and perused the materials placed on record.

9. It is relevant to extract paragraph No.4 of the order, dated 10.08.2017, made in W.P.(MD)No.15010 of 2017, which is as follows:

"4. Considering the limited scope of the prayer sought for by the petitioner, this Court, without going into the merits of the matter, directs the second respondent to consider the representation of the petitioner dated 07.07.2017 and take appropriate action on merits and in accordance with law, after providing opportunity to all necessary parties, within a period of ten weeks from the date of receipt of a copy of this order."

10. The learned Judge, while disposing of the writ petition, has clearly indicated that the merits of the claim projected by the petitioner have not been gone into and in fact while directing the Tahsildar, Thanjavur Taluk Office, Thanjavur District to consider the representation submitted by the first respondent/writ petitioner, also directed him to put notice to all the persons concerned. According to the learned Special Government Pleader appearing for the official respondents, the said exercise has been done by the concerned Official in strictly compliance with the order passed by this Court.

11. Since the learned Judge has specifically indicated that the merits of the claim projected by the first respondent/writ petitioner have not been gone into, in the considered opinion of the Court, the apprehension expressed by the appellants is wholly untenable and insofar as the pending suits are concerned, it is for the plaintiffs to probabilize their case by letting in



evidence and the trial Court would definitely appreciate the evidence let in by the parties and decide the suits on merits and in accordance with law.

12. In the result, the Writ Appeal is dismissed with the above observations. No costs. Consequently, the connected Miscellaneous Petition is also dismissed.

Sd/-

Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar

To

1. The District Collector,
Thanjavur District, Thanjavur.
2. The Tahsildar,
Thanjavur Taluk Office,
Thanjavur.

SSL/VSG

VB/SKN/RSK/SAR4/23.02.2018/4P/3C

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and
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