



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.03.2018

CORAM :

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

W.A. (MD) No.219 of 2018
and
C.M.P. (MD) No.1211 of 2018

M.Arunagirinathan

... Appellant/3rd Party

Vs.

1. G.Anaimuthu ... 1st Respondent/Writ petitioner
2. The District Collector,
Virudhunagar District,
Virudhunagar. ... 2nd espondent/1st Respondent
3. The Superintendent of Police,
Virudhunagar District,
Virudhunagar. ... 3rd Respondent/2nd Respondent
4. The Inspector of Police,
Anti Land Grabbing Special Cell,
Virudhunagar. ... 4th Respondent/3rd Respondent

PRAYER : Writ Appeal is filed under Clause 15 of Letters Patent, to set aside the order dated 21.07.2014 passed by this Court in W.P. (MD).No.11734 of 2014 and to dismiss the Writ petition.

Prayer in WP(MD)No.11734/ 2014 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the 2nd respondent to complete the enquiry and pass necessary orders as evidenced in the 1st Respondent proceedings Na.Ka.P2/15438/2012 dated 26.05.2014 within the time limit that may be fixed by this Court.

For Appellant	: Mr.M.Jerin Mathiew
For R-1	: Mr.D.Selvanayagam
For R-2 to R-4	: Mr.A.Muthukaruppan,
	Additional Government Pleader

**JUDGMENT**

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

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

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2. The first respondent herein filed W.P.(MD).No.11734 of 2014, praying for issuance of a Writ of Mandamus directing the third respondent in this writ appeal / second respondent in the writ petition to complete the enquiry and pass appropriate orders as evidenced in the proceedings of the second respondent herein, dated 26.05.2014 in Na.Ka.P2/15438/2012. This Court, vide final order dated 21.07.2014, has rejected the prayer sought for by the first respondent / writ petitioner insofar as the Survey No.330/2 is concerned and in respect of Survey No.55/4, has directed the police to secure all necessary details from the Revenue Department and conduct an enquiry and conclude the same within a period of four weeks from the date of receipt of a copy of that order.

3. The appellant, who is the third party to the said order, after obtaining leave, has filed this writ appeal.

4. The learned counsel appearing for the appellant would submit that the appellant herein is a person directly affected by the said order which came to be passed, at the admission stage itself and in all fairness, the first respondent ought to have arrayed him as a party, though he is very well aware of the name and identity, for compelling reasons, he has not arrayed him as a party and further add that the District Registrar, Virudhunagar, vide proceedings dated 09.03.2016, in Na.Ka.No.3145/A3/A4/2014, has cancelled the sale deed, as per Circular No.67. The registration of the sale deed is not valid and advised the parties to work out their remedy before a competent Court.

5. The appellant herein challenging the legality of the said proceedings has also filed an appeal before the Inspector General of Registration, Chennai - 4 and the same is pending. The primordial submission of the learned counsel for the appellant is that in all legal proceedings, the first respondent herein has not deliberately arrayed him as a party, though he made allegations against him and his conduct is highly deplorable as well as condemnable.

6. Per contra, the learned counsel appearing for the first respondent would submit that though the appellant knows pretty well the person, who conveyed the sale, was colluded with him as well as the official respondents and got the sale deed in his favour and the District Registrar, Administration of Virudhunagar District, has rightly held that the registration of the said sale deed is not valid vide proceedings, dated 09.03.2016 and it is the subject matter of challenge before the Inspector General of Registration, Chennai - 4, nothing remains for further adjudication in this writ appeal and prays for dismissal of the same.



7. This Court has carefully considered the rival submission and perused the materials placed before this Court.

8. The first respondent herein alleging threat as to the continuing of his property in respect of the lands comprised in Survey Nos.330/2 and 55/4, has lodged a complaint, on 05.05.2014, and just prior to that, filed W.P.(MD).No.11734/2014, praying for issuance of Writ of Mandamus, directing the second respondent to complete the enquiry and pass necessary orders as evidenced in the proceedings of the first respondent therein, dated 26.05.2014, within a stipulated time and paragraph No.2 of the said affidavit, the first respondent herein / the writ petitioner would aver that;

" at that time the police officials replied me that the land belongs to Government grabbed by the land grabbers, the Government alone competent authority to prefer a complaint against the said crime and therefore they can register the F.I.R only when the first respondent lodge a complaint before them."

9. This Court put a specific question to the learned counsel for the appellant as to whether the first respondent / writ petitioner was aware of the identity of the persons, who said to have indulged in land grabbing and he positively answered by saying that the first respondent / writ petitioner was aware of the same. In my considered opinion, the first respondent / writ petitioner has not exhibited fairness, and he should have impleaded the appellant herein as a party to the writ petition for the reason that he has alleged him as a land grabber also. Be that as it may, in the light of the subsequent development in the form of the order of the District Registrar, Administration of Virudhunagar, dated 09.03.2016, against which an appeal is also pending before Inspector General of Registration, Chennai - 4, nothing remains for further adjudication in the writ appeal. Therefore, the writ appeal is closed. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (P&A)

/True Copy/

Sub Assistant Registrar

To

1. The District Collector,
Virudhunagar District,
Virudhunagar.



2. The Superintendent of Police,
Virudhunagar District,
Virudhunagar.

3. The Inspector of Police,
Anti Land Grabbing Special Cell,
Virudhunagar.

+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 53575
+ 1 CC TO Mr.M.E.ILANGO, ADVOCATE IN SR No. 53544
+ 1 CC TO Mr.D.SELVANAYAGAM, ADVOCATE IN SR No. 53232

AKV

TE/SKN-RSK/SAR-3 : 12/04/2018 : 4P/7C

W.A.(MD)No.219 of 2018 and
C.M.P.(MD)No.1211 of 2018
06.03.2018