



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.03.2018

CORAM:

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

**W.A(MD)No.444 of 2018
and
C.M.P(MD)No.2661 of 2018**

1.G.Kavitha
2.K.Janchirani
3.C.Thangam
4.M.Jeyam

... Appellants/Petitioners

Vs.

1. The Revenue Divisional Officer,
Melur Division at Othakadai,
Madurai District.

2.R.Muthulingam
3.M.Mullai Selvan

... Respondents/Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent against the order, dated 13.04.2017 made in W.P(MD)No.6778 of 2017, on the file of this Court.

Prayer in WP(MD). 6778/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorarified Mandamus to call for the records in Ref.No. Na.Ka.No.2278/2016/C. quash the same and consequently direct the 1st respondent, not to taking any action in the Appeal pending before the 1st respondent and pass such further or other orders as this Hon'ble Court.

For Appellants : Mr.K.Kumaravel

For R - 1 : Mr.A.Muthukaruppan,
Additional Government Pleader.

For R - 2 : Mr.S.Ajmal Khan

**JUDGMENT**

(Judgment of the Court was delivered by

M. SATHYANARAYANAN, J.)

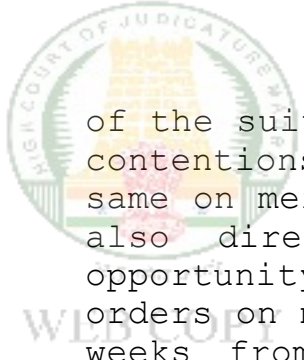
The appellants are the writ petitioners and they made a challenge to the impugned notice, dated 05.01.2017 issued by the first respondent in W.P(MD)No.6778 of 2017. The said writ petition vide order, dated 13.04.2017 came to be dismissed on the ground that it is only an enquiry notice and since no final order has been passed, the writ petitioners have to participate in the enquiry, if they are advised so and challenging the legality of the same, the present Writ Appeal is filed.

2.The learned counsel appearing for the appellants would submit that the appellants herein filed a comprehensive suit in O.S.No.328 of 2011 on the file of the Court of the Principal District Munsif, Melur, against R.Sethuraman, R.Subramanian, R.Muthulingam, R.Gandhi and M.Mullaiselvan praying for declaration of their title to the suit property bearing patta No.6011 comprised in Survey No.315/14, Vellaloor Village, Melur Taluk, Madurai District and for permanent injunction restraining the defendants from interfering with their peaceful possession and enjoyment of the same and the said suit is still pending and as such, the first respondent ought not to have issued a notice for conducting enquiry with regard to the transfer of patta and invited the attention of this Court to the proceedings of the first respondent, dated 23.09.2015 in Ni.Mu.No.4262/2014/N pertains to the property in Survey No.292/7, wherein the said official has taken note of the pendency of the civil suits and directed the parties to work out their remedy before the appropriate Court and dismissed the petition and the same should have to be adopted by the first respondent also and prays for interference.

3.Per contra, the learned counsel appearing for the second respondent would submit that admittedly no interim orders are in operation in the civil suit and as such, there is no impediment on the part of the first respondent to proceed with the enquiry and prays for dismissal of the writ appeal.

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

5.In view of the comprehensive civil suit being filed by the appellants in O.S.No.328 of 2011 on the file of the Court of the Principal District Munsif, Melur, and also the fact remains that there is no interim order in operation, as rightly pointed out by the learned Judge in the impugned order, it is merely a service upon the appellants/writ petitioners to participate in the enquiry and it is open to the appellants/writ petitioners to submit a detailed representation as well as about the pendency



of the suit. This Court did not touch upon the merits of the rival contentions and it is for the first respondent to adjudicate the same on merits and in accordance with law. The first respondent is also directed to expedite the enquiry, after providing an opportunity of personal hearing to the parties and pass final orders on merits and in accordance with law within a period of ten weeks from the date of receipt of a copy of this order and communicate the decision taken, to the appellants/writ petitioners as well as to the respondents 2 and 3.

6. In the result, this writ appeal is dismissed, confirming the order, dated 13.04.2017, made in W.P(MD)No.6778 of 2017, by the learned Single Judge, subject to the above observations. However, in the facts and circumstances of the case, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar

To

The Revenue Divisional Officer,
Melur Division at Othakadai,
Madurai District.

+ 1 cc TO The Special Government Pleader in SR No. 59206

ps
AE/SKN RSK/SAR3/12.04.2018/3P/3C

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