



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.02.2018

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE R.THARANI

W.P.(MD) No.517 of 2018
and
W.M.P.(MD) No.570 of 2018

S.Vellaichamy

... Petitioner

-vs-

- 1.The District Collector
Sivagangai District, Sivagangai
- 2.The District Revenue Officer
District Revenue Office
Sivagangai, Sivagangai District
- 3.The Revenue Divisional Officer
Revenue Divisional Office
Sivagangai, Sivagangai District
- 4.The Tahsildar
Taluk Office
Ilayankudi, Sivagangai District

5.Veerasingham ... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorari to call for the records relating to the impugned proceedings of the fourth respondent, dated 29.12.2017 in Na.Ka.No.A2/3636/2017, and quash the same.

For Petitioner: Mr.A.Saravanan

For Respondents : Mr.D.Muruganandam
Addl. Govt. Pleader for R1 to R4
Mr.V.Panneerselvam for R5

O R D E R

[Order of the Court by T.S.SIVAGNANAM, J.]

Heard Mr.A.Saravanan, learned counsel appearing for the petitioner, Mr.D.Muruganandam, learned Additional Government Pleader appearing for the respondents 1 to 4 and Mr.V.Panneerselvam, learned counsel appearing for the fifth respondent and perused the materials produced.



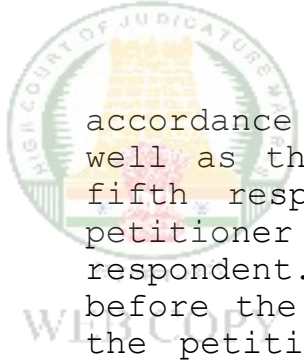
2. The petitioner has challenged the order, dated 29.12.2017, passed by the fourth respondent. The dispute involved in the present case relates to a lane between the house owned by the petitioner and the fifth respondent. According to the petitioner, the fifth respondent wrongly obtained a reclassification of the lane as a pathway and therefore, the petitioner was constrained to approach this Court by filing a writ petition in W.P.(MD) No.35 of 2018 as well as he has approached the Civil Court by filing a suit in O.S.No.38 of 2017, before the learned District Munsif, Elaiyankudi, wherein he has sought for a relief of declaration.

3. The writ petition filed by the petitioner in W.P.(MD) No.35 of 2018 was for issuance of a writ of mandamus to direct the respondents to consider his representation with regard to the reclassification of the land, where according to the petitioner a lane is situated and it cannot be classified as a pathway. The said writ petition has been disposed of by order, dated 04.01.2018, with a direction to the Tahsildar, Ilayankudi Taluk, to dispose of the petitioner's representation, dated 30.12.2017, on merits and in accordance with law and the operative portion of the said order reads as follows:

"3. The petitioner claims to be in possession of 2 cents of natham poramboke land in Survey Nos.264/15 and 264/16 Nanamadai Village, Akkavayal Group, Ilayankudi Taluk, Sivagangai District. According to the petitioner, the said land was also sub divided and a portion of the said land reclassified as natham lane. In the above circumstances, the petitioner has made a representation, dated 30.12.2017, which is pending. Hence, the petitioner has filed this writ petition for the relief stated supra.

4. Considering the facts and circumstances of the case, this Court, without going into the merits of the case, directs the fourth respondent to consider the representation of the petitioner, dated 30.12.2017 and pass appropriate orders on merits and in accordance with law, within a period of six weeks from the date of receipt of a copy of this order, after giving opportunity to the petitioner as well as to rival parties, if any."

4. The fifth respondent herein was not impleaded as a party ~~respondent in the~~ above mentioned writ petition. Nevertheless, the Court has safeguarded the interest of all concerned and directed that the petitioner's representation be considered on merits and in



accordance with law, after giving opportunity to the petitioner as well as the rival party. The rival party is none other than the fifth respondent herein. Therefore, the representation of the petitioner should be considered after notice to the fifth respondent. That apart, the petitioner sought for a larger relief before the Civil Court, which is also pending. Thus, we find that the petitioner's interest is being properly persuaded before the Civil Court.

5. At this juncture, the learned counsel for the petitioner submitted that liberty may be granted to the petitioner to file an application for amendment of the prayer in the Civil Court.

6. In our considered view, the Writ Court cannot grant such liberty as it is for the petitioner the *dominus litis* to decide upon who has to be impleaded and what relief has to be sought for in the suit. Thus, the writ petition is disposed of by giving liberty to the petitioner and the fifth respondent to canvas all the issues before the appropriate forum in the manner known to law. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-

Assistant Registrar(CSI)

/True Copy/

Sub-Assistant Registrar

To:

1.The District Collector,
Sivagangai District, Sivagangai.

2.The District Revenue Officer,
District Revenue Office,
Sivagangai, Sivagangai District.

3.The Revenue Divisional Officer,
Revenue Divisional Office,
Sivagangai, Sivagangai District.

4.The Tahsildar,
Taluk Office, Ilayankudi, Sivagangai District.
+One cc to The Special Government Pleader, SR.No.48301
+One cc to Mr.V.Panneerselvam, Advocate, SR.No.48188
+One cc to Mr.S.Muthukumar, Advocate, SR.No.48336

krk

RL/8C/3P/KK/SAR1/26/2/2018

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