



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.09.2018

CORAM:

THE HONOURABLE Mr. JUSTICE V. PARTHIBAN

W.P. (MD) No. 19497 of 2018

and

W.M.P. (MD) .No. 17310 of 2018

R. Balasubramanian

.. Petitioner

Vs.

1. The Assistant Settlement Officer,
Office of the Directorate/Commissionerate of Land
Survey and Settlement,
Survey House, 3rd Floor,
Chepauk,
Chennai - 600 005.

2. The Special Tahsildar,
Department of Town Survey and Settlement,
Devakottai Town,
Sivagangai District.

3. The Sub Inspector of Survey,
Department of Town Survey and Settlement,
Devakottai Town,
Sivagangai District.

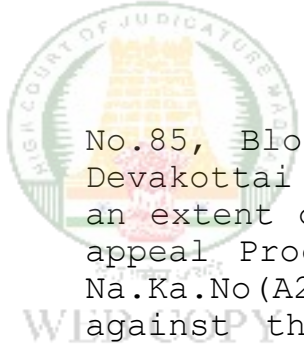
4. The Tahsildar,
Devakottai Taluk Office,
Sivagangai District.

5. The Commissioner,
Devakottai Municipality,
Devakottai,
Sivagangai District.

6. Devakottai Town Congress Committee,
Rep. by its Ex. President,
A. Velusamy

.. Respondents

PRAYER: This Writ Petition is filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, to direct the respondents 1 to 5 herein to pass appropriate orders with the effect of not allowing the 6th respondent from making any unauthorized construction activities in the land bearing Town Survey



No.85, Block No.5, Town Ward-J, Chithambaranathapuram, 1st Street, Devakottai Municipal Town, Devakottai, Sivagangai District measuring an extent of 0.0325.0 sq. meter till the disposal of the settlement appeal Proceedings pending before the 1st respondent in Appeal No. Na.Ka.No(A2)/4283/15 dated 13.10.2015 filed by the petitioner herein against the respondents 2 and 6 herein in respect of the said property within a stipulated time as that may be fixed by this Court.

For Petitioner : Mr.A.Saravanan
 For Respondents 1 to 4 : Mr.M.Jeyakumar
 Additional Government Pleader

O R D E R

The case of the petitioner is that he and the sixth respondent have a serious dispute with regard to the ownership of the property to an extent of 2 cents out of total extent of 0.03252.0 Sq. meter (8 cents) situated in Town Survey No.85, Block.5, Town ward-J, Chithambaranathapuram 1st Street, Devakottai Municipal Town, Devakottai, Sivagangai District.

2. According to the petitioner the subject property is an ancestral property of his father and the same devolved on him by virtue of death of his father and mother. With regard to the dispute, a suit was also filed in O.S.No.154 of 2010 on the file of the Sub Judge, Devakottai. The said suit was decreed in the Lok Adalat and 1/3rd share was allotted to the petitioner and the final decree is yet to be passed.

3. The petitioner filed another suit in O.S.No.144 of 2008 on the file of the Sub Judge, Devakottai for declaration and injunction. The sixth respondent is the defendant in the said suit. In the meanwhile statutory appeal proceedings were also initiated before the first respondent on 13.12.2015 filed by the petitioner as against the order passed by the second respondent dated 02.03.2015. While the dispute is pending before the first respondent as well as before the competent Civil Court, the petitioner has approached this Court in the interregnum seeking certain directions to prevent the sixth respondent from putting up construction in the disputed property. This Court is unable to appreciate as to how it is open to the petitioner to approach this Court by invoking its extraordinary jurisdiction under Article 226 of the Constitution of India, when admittedly settlement proceedings are pending before the first respondent and a suit for declaration is also pending before the competent Civil Court. Therefore, the proper course for the petitioner is to approach either the settlement officer for expeditious disposal of the appeal or the Civil Court where the suit is pending as between the petitioner and the sixth respondent for any immediate remedy in the manner known to law. It is certainly not open to the petitioner to approach this Court by invoking its writ jurisdiction in the meanwhile, when matters are pending before the



competent authority and the Civil Court.

4. In view of the above, this Court finds that the writ petition as it is not maintainable and therefore, the same is dismissed. No Costs. Consequently, connected miscellaneous petition is dismissed.

Sd/-

Assistant Registrar (T & P)

// True Copy //

Sub Assistant Registrar(CS-I)

To

1.The Assistant Settlement Officer,
Office of the Directorate/Commissionerate of Land
Survey and Settlement,
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Chepauk,
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2.The Special Tahsildar,
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Department of Town Survey and Settlement,
Devakottai Town,
Sivagangai District.

4.The Tahsildar,
Devakottai Taluk Office,
Sivagangai District.

+1 CC TO The Special Government Pleader SR.NO. 83727

W.P. (MD) No.19497 of 2018
10.09.2018

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