



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.10.2018

CORAM:

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

WEB COPY

W.P. (MD) No.20835 of 2018

and

W.M.P. (MD) No.18613 of 2018

Thiruparankundram Panangulam
Kanmoi Pasana Vivasayigal Sangam
rep.by its President R.Suriyathevan
No.5, East Street, Middle Lane
Thiruparankundram, Madurai - 5

... Petitioner

vs.

1.The District Collector
Madurai District, Madurai

2.The Tahsildar
Thirupparankundram Taluk
Madurai District

3.Pandi

4.Alagammal

5.Karuppaiah

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of mandamus directing the 2nd Respondent not to take any steps to change the patta no.374 stands in the name of petitioner sangam in respect of land to an extent of 32 cents situated in Survey Nos.285/1A, Thirupparankundram village, Madurai District based on the summon issued by him in Na.Ka.No.B/6606/2018 dated 20.09.2018 till the disposal of the suit in O.S.No.143 of 2014 on the file of Learned District Munsif Court, Thirumangalam on merits by considering the representation dated 26.09.2018 submitted by the petitioner before the 1st Respondent.

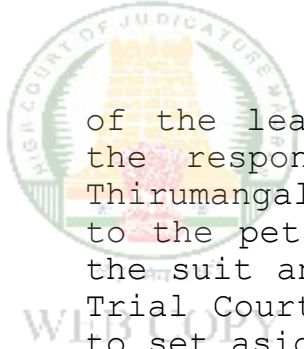
For Petitioner : Mr.K.Mahendran

For Respondents : Mr.M.Jeyakumar

Additional Government Pleader for R1 & R2

ORDER

According to the petitioner - Sangam, the subject land has been given to them by way of a settlement deed, which is the subject matter of challenge in the suit in O.S.No.143 of 2014, on the file



of the learned District Munsif, Thirumangalam, at the instance of the respondents 3 to 5 herein. The learned District Munsif, Thirumangalam, decreed the suit ex parte on 01.03.2018. According to the petitioner - Sangam, they were not aware of the pendency of the suit and after they came to know about the decree passed by the Trial Court, they took steps and filed an interlocutory application to set aside the ex parte decree and Judgment on 25.09.2018.

2. According to the learned counsel appearing for the petitioner - Sangam, in the interregnum, the second respondent, by proceedings dated 20.09.2018, issued summons to the petitioner - Sangam and also to the respondents 3 to 5 directing them to appear before him on 26.09.2018. Accordingly, the petitioner appeared before the second respondent and requested not to pass any orders till the disposal of the interlocutory application on merits. However, the second respondent granted time only upto 04.10.2018. In these circumstances, the petitioner - Sangam is before this Court seeking a direction to the second respondent not to take any steps to change the Patta, which stands in the name of the petitioner - Sangam in respect of the subject land.

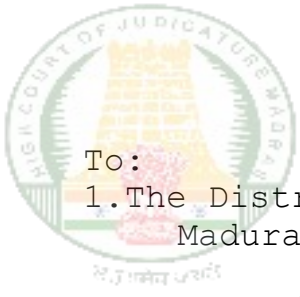
3. This Court is unable to appreciate as to how the petitioner - Sangam can approach this Court in the interregnum, when already a suit was filed in respect of the same subject matter before the learned District Munsif, Thirumangalam and the said suit has been admittedly decreed ex parte on 01.03.2018. However, the petitioner - Sangam aggrieved by the ex parte decree had also approached the Civil Court by way of filing interlocutory application and the same is pending. Once the interlocutory application is filed seeking to set aside the ex parte decree and Judgment, it is not open to the petitioner - Sangam to seek the similar kind of relief by invoking the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India. It is always open to the petitioner - Sangam to expedite the hearing of the interlocutory application before the Civil Court concerned and the petitioner - Sangam can also file application for the relief, as prayed in this writ petition, before the Civil Court concerned. In stead of doing so, the petitioner - Sangam has chosen to approach this Court by invoking its writ jurisdiction.

4. For the above said reasons, this Court is of the view that the writ petition is not maintainable and the same is, therefore, dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-I)

/True Copy/



To:

1.The District Collector,
Madurai District, Madurai.

2.The Tahsildar,
Thirupparankundram Taluk,
Madurai District.

+1CC to Mr.K.Mahendran, Advocate, SR.No.88678

+1CC to the Special Government Pleader SR.No.88830

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04.10.2018

KRK

ES/PM/SAR 1/27.10.2018/3P/5C