

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.04.2019

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.3182 of 2019
and
W.M.P.No.3439 of 2019

V.C.Gobinath

...Petitioner

Vs.

1. The Government of Pondicherry,
Represented by the Director,
Directorate of Survey and Land Records,
Puducherry.
2. The Settlement Officer -1,
Directorate of Survey and Land Records,
Puducherry.
3. Thiru V.Seenuvasamurthy
(Power Agent of Aravamudhu),
S/o. Venkatajalapathy,
No.1, Veera Reddiar Street,
Kunichempet, Thirukannur & Post,
Puducherry - 605501.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records of the 2nd respondent culminating in the Notice SP.No.200/ST-I/ES/2005 and 5582/DOS/ST-1/E3/23(1)/2018 dated 24.01.2019, quash the same.

For Petitioner : Mr.C.A.Diwakar

For Respondents: Mr.J.Kumaran

Additional Government Pleader
(Puducherry) for R1 & 2
Mr.L.Chandrakumar for
Mr.K.Sasindran for R3

O R D E R

The petitioner is aggrieved against the enquiry notice issued by the second respondent dated 24.01.2019, arising out of settlement patta proceedings.

2. Heard Mr.C.A.Diwakar, learned counsel appearing for the petitioner, Mr.J.Kumaran, learned Additional Government Pleader appearing for the respondents 1 and 2 and Mr.L.Chandrakumar for Mr.K.Sasindran, learned counsel appearing for the third respondent and perused the materials placed before this Court.

3. The petitioner claims to be the owner of the subject matter property referred to in the impugned notice. According to the petitioner, the third respondent, power agent of one Aravamudhu is not having a right or title over the subject matter property and therefore, the second respondent, under the guise of conducting the enquiry, cannot decide the title.

4. It is the specific case of the petitioner that the very same third respondent, as the power agent representing the said Aravamudhu, A.Lakshminarayanan and Krithiga has already filed a Civil Suit in O.S.No.1649 of 2018 on the file of Principal District Munsif Court, Pondicherry seeking for the relief of declaration to declare the plaintiffs are the absolute owners of the property and for declaring the Preliminary Decree passed in O.S.No.230 of 1977 dated 25.07.1979, by the Additional Sub Judge, Pondicherry, as Null and Void and for permanent injunction.

5. Therefore, it is contended that when the third respondent has already gone before the Civil Court and filed such suit in respect of the very same subject matter property, unless and until the Civil Court decides the title, the Revenue Authority is not entitled to probe into the matter in the meantime, though, the proceedings is in respect of issuance of patta.

6. On the other hand, the learned Additional Government Pleader submitted that challenge made in this writ petition is only against notice of enquiry and therefore, the contentions raised by the petitioner can be raised before the second respondent, so as to enable him to take appropriate decisions.

7. Mr.L.Chandrakumar, learned counsel for the third respondent, sailing with the contentions raised by the learned Additional Government Pleader, submitted that the petitioner is not entitled to question the notice of enquiry and therefore, he can very well make his objection before the second respondent which infact has been done, in pursuant to the impugned notice.

Therefore, he submitted that the second respondent may be permitted to pass appropriate orders.

8. No doubt the challenge made in this writ petition is against the enquiry notice issued by the second respondent. However, the fact remains that the property referred to in the impugned notice is the subject matter property in O.S.No.1649 of 2018 filed by the third respondent on behalf of his Principals.

9. As already stated supra, the said suit was filed for declaration to declare the plaintiffs, as the absolute owners of the property and for other consequential relief. Therefore, when the third respondent representing his Principals has already approached the Civil Court and filed the Civil Suit seeking for declaration of title to the subject matter property and when the said suit is still pending, this Court is of the view that the Revenue Officials, in the meantime, cannot probe into the matter even by way of patta proceedings, as granting of patta is only a consequential action in pursuant to the declaration of title by the competent Civil Court.

10. Needless to say that once the Civil Court decides the dispute between the parties, the Revenue Officials can be approached thereafter, based upon the decree so passed. In the meantime, permitting the second respondent to continue the enquiry pursuant to the impugned notice will only be a futile exercise.

11. Therefore, without expressing any view on the merits of the matter as well as the claim made by the respective parties in respect of the title to the properties, this Writ Petition is disposed of as follows:-

(i) The parties shall agitate their title dispute over the said property before the Civil Court where the suit in O.S.No.1649 of 2018 is pending, as this Court is not expressing any view on the merits of their respective claim over the subject matter property.

(ii) Till the Civil Court decides the dispute between the parties and pass a decree, the second respondent shall defer the matter in pursuant to the impugned notice.

No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

sni

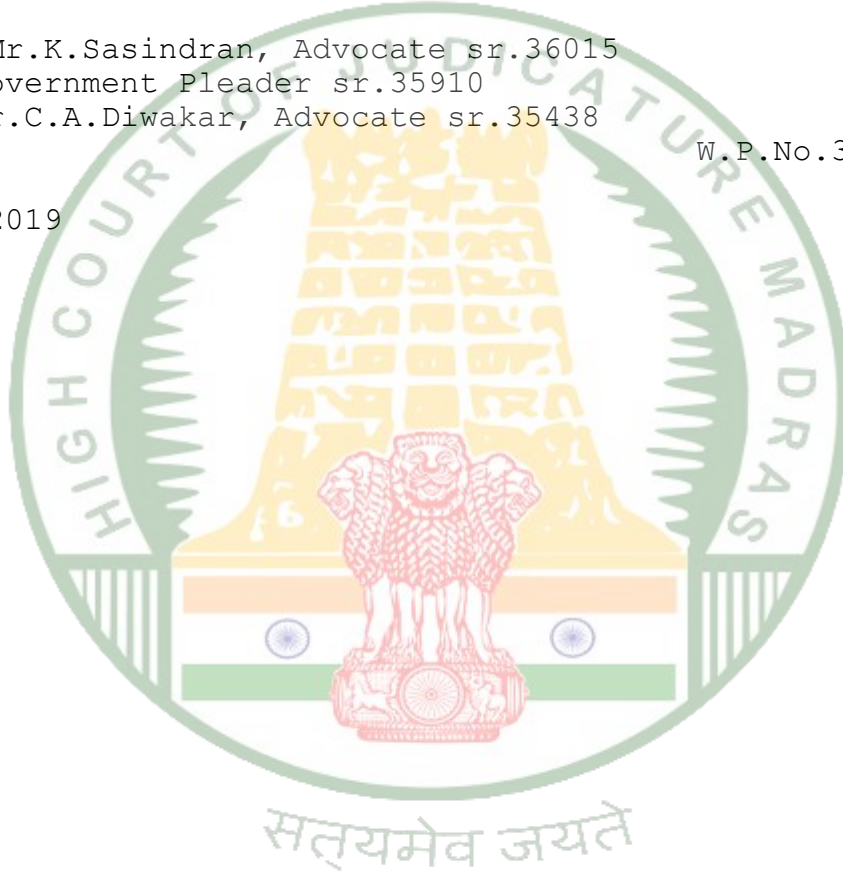
To

1. Director of Directorate of Survey and Land Records,
The Government of Pondicherry,
Puducherry.
2. The Settlement Officer -1,
Directorate of Survey and Land Records,
Puducherry.

+1cc to Mr.K.Sasindran, Advocate sr.36015
+1cc to Government Pleader sr.35910
+1cc to Mr.C.A.Diwarar, Advocate sr.35438

W.P.No.3182 of 2019

nr 18/06/2019



WEB COPY