

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 25.06.2019

CORAM:

THE HON'BLE MR. JUSTICE P.D.AUDIKESSAVALU

W.P. No. 7392 of 2018
and
W.M.P. SR. No. 82348 of 2018

M/s. Jeppiaar Educational Trust,
Represented by its Trustee,
Dr. Regeena Jeppiaa Murali,
Chairman of Jeppiaar Engineering College,
No.12, Ganapathy Street,
Royapettah, Chennai - 600 014.

... Petitioner

-vs-

1. The Revenue Divisional Officer,
Taluk Office Complex,
GST Road, Tambaram West,
Chennai - 600 045.
2. Tahsildar,
No.3, 1st Street, Kumaran Nagar,
Rajiv Gandhi Salai,
Sholinganallur,
Chennai - 600 119.
3. Tamilarasan
4. Parameswari
5. Ramachandran
6. Sethu
7. Ganapathy

... Respondents

Prayer :- Writ Petition filed under Article 226 of Constitution of India, seeking for a Writ of Certiorari, to call for records pertaining to impugned proceedings initiated by the First Respondent vide Na. Ka. No. 202 / 2018 / A dated 20.02.2018 and quash the same.

For Petitioner : Mr. Hari Radhakrishnan
For Respondents : Mr. R. Venkatesh for R1 and R2
Government Advocate

Mr. G. Saravanakumar
for R3 to R5 and R7

No appearance for R6

O R D E R

The Writ Petition has been filed challenging the notice Na. Ka. No. 202 /2018 /A dated 20.02.2018 issued to the Petitioner to attend enquiry for issuance of patta.

2. The First and Second Respondents have filed Counter Affidavit dated 09.05.2018 stating that subsequent to the impugned notice, orders have been passed in the aforesaid proceedings disposing the same holding that inasmuch as the land involved was vacant site, the rival claims of possession made by the Petitioner on the one hand and the Second to Second to Seventh Respondents on the other, could not be determined. In view of the subsequent developments after the impugned notice, there is nothing which survives for further consideration in the matter. No infirmity has been shown in the final decision passed by the First Respondent.

3. The Hon'ble Supreme Court of India in Anathula Sudhakar -vs- P. Buchi Reddy [(2008) 4 SCC 594] has held that where a cloud is raised over the title of the Plaintiff and there are disputes relating to possession, a suit for declaration and possession with or without consequential injunction is the remedy, and the relevant portion from that decision is extracted below:-

"16. But what if the property is a vacant site, which is not physically possessed, used or enjoyed? In such cases the principle is that possession follows title. If two persons claim to be in possession of a vacant site, one who is able to establish title thereto will be considered to be in possession, as against the person who is not able to establish title. This means that even though a suit relating to a vacant site is for a mere injunction and the issue is one of possession, it will be necessary to examine and determine the title as a prelude for deciding the de jure possession. In such a situation, where the title is clear and simple, the court may venture a decision on the issue of title, so as to decide the question of de jure possession even though the suit is for a mere

injunction. But where the issue of title involves complicated or complex questions of fact and law, or where court feels that parties had not proceeded on the basis that title was at issue, the court should not decide the issue of title in a suit for injunction. The proper course is to relegate the plaintiff to the remedy of a full-fledged suit for declaration and consequential reliefs."

It is only dependent upon the ultimate outcome of such suit that may be instituted by the concerned parties, the Revenue Authorities would be in a position to consider the claim made by the Petitioner for grant of patta in respect of the property.

4. Accordingly, the Writ Petition stands disposed with the aforesaid observations. Consequently, connected Miscellaneous Petition is also closed. No costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

To

1. The Revenue Divisional Officer,
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Rajiv Gandhi Salai,
Sholinganallur,
Chennai - 600 119.

+1cc to Mr. G. Saravanakumar, Advocate sr.52661
+1cc to Mr. Hari Radhakrishnan, Advocate sr.52684
+1cc to Government Pleader sr.53485

W.P. No. 7392 of 2018
and
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bs(co)
nr 21/08/2019