

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED 30.01.2019

CORAM
THE HONOURABLE MRS. JUSTICE PUSHPA SATHYANARAYANA

W.P.No.10763 of 2018
and WMP Nos.12708 & 12709 of 2018

1. Pappannan
2. Muniappan
3. Vediappan
4. Govindan

.. Petitioners

Vs.

1. The District Collector,
Dharmapuri District,
Dharmapuri.
2. The Revenue Divisional Officer,
Revenue Divisional Office,
Dharmapuri.
3. The Tahsildar,
Palacode, Palacode Taluk,
Dharmapuri District.
4. Moorthy
5. Selvam

... Respondents

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, call for the records relating to the proceedings of the second respondent in his proceedings No.O.Mu.495/2018/A3, dated 27.02.2018 and quash the same and consequently direct the official respondents not to measure the cart track comprised in Survey Nos.135/1C and 135/4A of Kollahalli Village, Palacode Taluk, Dharmapuri District.

For Petitioners: Mr.D.Rameshkumar

For Respondents: Mr.N.Inbanathan
Additional Govt. Pleader for RR1 to 3

O R D E R

The prayer sought for in this Writ Petition is for the issuance of a Writ of Certiorarified Mandamus, to quash the proceeding No.O.Mu.495/2018/A3, dated 27.02.2018, of the second respondent and consequently, direct the official respondents not to measure the cart track comprised in Survey Nos.135/1C and 135/4A of Kollahalli Village, Palacode Taluk, Dharmapuri District.

2. Heard Mr.D.Rameshkumar, learned Counsel appearing for the petitioner and Mr.N.Inbanathan, learned Additional Government Pleader appearing for the respondents 1 to 3.

3. The petitioners have issued a legal notice to the respondents on 27.01.2018 contending that the properties in Survey No.135/1C and 135/4A belong to them. The respondents 4 and 5 are said to have purchased the right of cart track from one Athiappan and his wife on 23.06.2005. In this regard, suit in OS No.48 of 2018 is also filed before the District Munsif, Pallacode, for declaration of title over the property in Survey Nos.135/1C and 135/4A of Kollahalli Village and permanent injunction and the same is said to be pending.

4. In the meanwhile, the petitioners issued a legal notice requesting the official respondents not to survey the lands in Survey Nos.135/1C and 135/4A. In response to the same, the Revenue Divisional Officer has sent a reply in proceedings No.O.Mu.495/2018/A3 dated 27.02.2018, as per which, the Tahsildar, Pallacode, was directed to conduct an enquiry and file a report to the Revenue Divisional Officer. Till today, there was no enquiry conducted by the Tahsildar-third respondent.

5. A counter has been filed on the side of the official respondents. It is stated that there is a Civil Suit pending between the parties in this regard and no interim order has been granted in the same. The complaint of the petitioner is that the official respondents are trying to survey the property, when there is a dispute between both the parties and the matter is sub-judice. Besides, when the Revenue Divisional Officer has directed the Tahsildar to conduct an enquiry based on the legal notice, and send a report, the Tahsildar, Pallacode ought to have sent an enquiry report. Without doing that, he has attempted to survey the property which has driven the petitioner to file the Writ Petition.

6. Be that as it may, the Tahsildar was only directed to file an enquiry report in the impugned order. Therefore, the petitioner cannot be aggrieved by the same. The Tahsildar, Pallacode, is directed to conduct an enquiry in respect of the

status of the suit and the other particulars of the possession etc. and after due enquiry, submit a report taking into consideration, the pendency of the suit. If the rights of the parties are to be decided only in the suit, the Authorities need not take any action till the suit is disposed of. The Tahsildar is directed to file a report within a period of four weeks as directed in the communication dated 27.02.2018.

7. With the above direction, the Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

jv

To

1.The District Collector,
Dharmapuri District,
Dharmapuri.

2.The Revenue Divisional Officer,
Revenue Divisional Office,
Dharmapuri.

3.The Tahsildar,
Palacode, Palacode Taluk,
Dharmapuri District.

+1cc to Mr.D.Rameshkumar, Advocate, S.R.No.7971

+1cc to the Government Pleader, S.R.No.8153

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MP(CO)

rrs 01/03/2019

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