

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.10.2019

CORAM:

THE HONOURABLE MR. JUSTICE T. RAJA

Writ Petition No.30745 of 2013 and
M.P.Nos.1 and 2 of 2013 and
WMP.Nos.34925 and 34926/2013

Thayarammal Petitioner

Vs

1. The District Collector,
Kancheepuram District,
Kancheepuram.

2. The District Revenue Officer,
Kancheepuram,
Kancheepuram District.

3. The Revenue Divisional Officer,
Tambaram,
Kancheepuram District.

4. Kavitha

5. K.Vanaja Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records in Na.Ka.No.1612/2013/N3 dated 09.10.2013 passed by the 2nd respondent and quash the same.

For Petitioner :Mr.C.T.Mohan

For Respondents :Mr.V.Shanmuga Sundar
1 to 3 Spl.Govt.Pleader

For 4th respondent:Mr.M.Arvind Subramanian

R5 : No Appearance

O R D E R

This Writ Petition has been filed challenging the correctness of the impugned order bearing Na.Ka.No.1612/2013/N3 dated 09.10.2013 passed by the 2nd respondent, namely, the District Revenue Officer, Kancheepuram, Kancheepuram District, pursuant to the order

passed by the Commissioner of Land Administration, Ezhilagam, Chennai dated 09.10.2013.

2. Learned Counsel appearing for the petitioner submitted that the Commissioner of Land Administration, Chennai has no authority whatsoever to entertain the Second Revision filed, challenging the order passed by the District Revenue Officer, Kancheepuram, Kancheepuram District by virtue of G.O.Ms.No.409 of Revenue SSI(1) Department dated 02.07.2008, thereby taking away the authority jurisdiction and power of the Commissioner of Land Administration in RSO 31.8(A) which has been deleted. Since the learned Counsel for the petitioner has questioned the authority of the Commissioner of Land Administration to entertain the Second revision, it is pertinent to extract the relevant portion in G.O.Ms.No.409 here under:

'3. The Special Commissioner and Commissioner of Land Administration has suggested draft amendment to the existing R.S.O. Para 31.8(A) by way of deletion of the following lines:

'A further revision to the Commissioner of Land Administration can be made within 30 days from the date of receipt of the order and the orders of the Commissioner of Land Administration are final.'

4. In the above circumstances, the Government examined the proposal of the Special Commissioner and Commissioner of Land Administration in detail, and decided to accept the amendment to R.S.O.31.8(A) as mentioned in para 3 above. Accordingly, the Government direct the Special Commissioner and Commissioner of Land Administration that all ongoing enquiries may be carried on to the logical conclusion and orders issued. The Special Commissioner and Commissioner of Land Administration should ensure that in all case where enquiries are not commenced, they may be returned back, with direction to approach Competent Court of Law.'

3. Mr.M.Aravind Subramanian, learned Counsel appearing for the 4th respondent, intervening at this stage contended that the petitioner cannot raise such a plea, without challenging the correctness of the order passed by the Commissioner of Land Administration. Continuing his argument, the learned Counsel for the 4th respondent contended that the 4th respondent has also filed a civil suit for declaration of the disputed title between the petitioner and the 4th respondent on the file of the Principal District Judge, Chengalpet in O.S.No.267/2015. Besides, the petitioner has also filed a Civil Suit in O.S.No.144/2012 on the file of the learned District Munsif, Tambaram, seeking permanent injunction against the 4th respondent not to interfere with the land-in- question. Unless these two suits are decided, the order passed by the District Revenue Officer pursuant to the direction given by the Commissioner of Land Administration may not have any legal validity and cannot have any binding effect.

4. In view of the above, this Court without going into the merits of the claim of the petitioner, taking into account the fact that the petitioner having filed the civil suit in O.S.No.144/2012 seeking permanent injunction against the 4th respondent on the file of the learned District Munsif whereas the 4th respondent has also filed the civil suit in O.S.No.267/2015 on the file of the learned Principal District Judge, Chengalpet seeking decree for declaration of title and permanent injunction, hereby directs the learned Principal District Judge, Chengalpet to take up the pending O.S.No.267/2015 on file and give a disposal as it has been pending for quite a long time.

5. At this stage, the learned Counsel for the petitioner and the learned Counsel for the 4th respondent jointly made a prayer to transfer O.S.No.144/2012 pending on the file of the learned District Munsif, Tambaram to the file of the learned Principal District Judge, Chengalpet to be tried alongwith O.S.No.267/2015, this Court accepting the said joint request, withdraws the pending O.S.No.144/2012 from the learned District Munsif, Tambaram and transfer the same to the file of the learned Principal District Judge, Chengalpet to be tried along with O.S.No.267/2015 and dispose of the same on merits and in accordance with law, within a period of six months from the date of receipt of a copy of this Order since the same are pending for quite a long time. The learned Principal District Judge, Chengalpet is directed to dispose of both the suits uninfluenced by the reasoning and the observation given in the order passed by the District Revenue Officer, Kancheepuram, the 2nd respondent herein and also the Commissioner of Land Administration.

6. With the above direction and observation, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

tsi

To

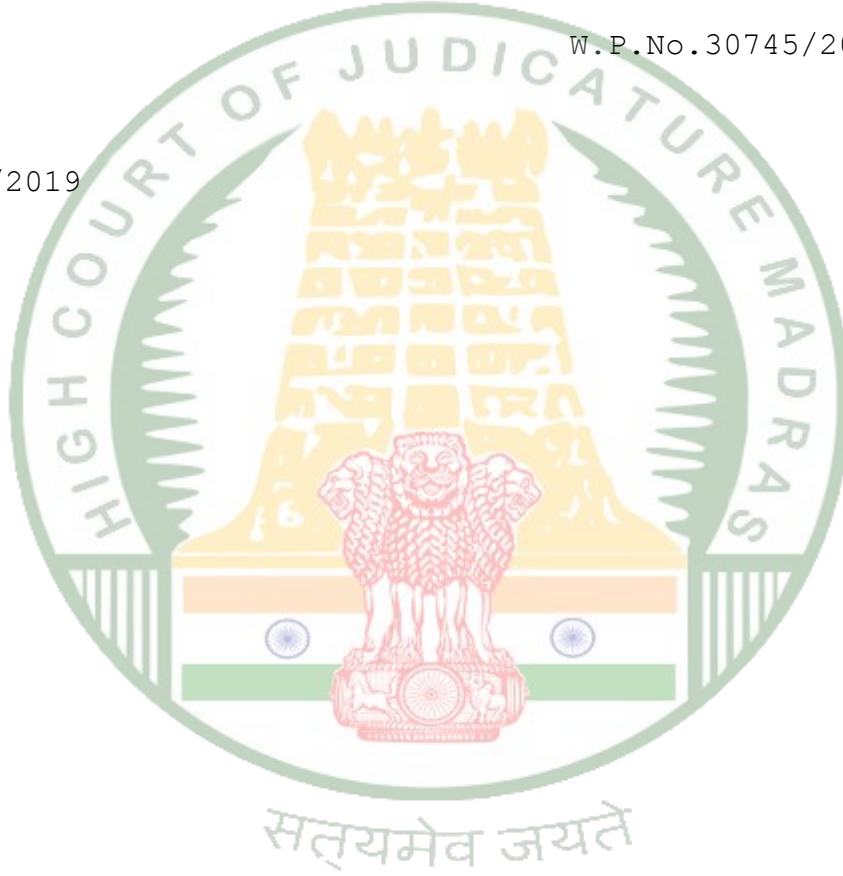
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+1cc to the Government Pleader Sr.87790
+1cc to Mr.M.Aravind Subramaniam, Advocate Sr.87218
+2cc to M/s.R.Vijayaraghavan, Advocate Sr.87160

W.P.No.30745/2013

sj[co]
srg 21/11/2019



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