

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.12.2019

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THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.6334 of 2017
and WMP.No. 6831 of 2017

D. Balasundaram

.. Petitioner

-vs-

1. The District Collector,
Thiruvallur,
Thiruvallur District,
Tamil Nadu.

2. The Tahsildar,
Maduravoyal Division,
Thiruvallur District.

3. Mr. D.Chittibabu

4. Mr.C. Sulochana

.. Respondents

Petition under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, calling for the records of impugned order in Lr.Na.Ka.No.460/2017/Aa1 dated 06.03.2017 of the respondent quash the same and consequently forbear the 1st and 2nd respondents from in any manner issuing patta in favour of the 4th respondent based on the schedule mentioned in the settlement deed bearing document No.8426 of 2015 dated 29.05.2015.

For Petitioner : Mr.N.Doraikannan

For Respondents : Mr. N.Srinivasan [R1 & R2]

ORDER

In the light of the order this Court proposes to pass in this writ petition notice to respondents 3 and 4 is dispensed with.

2. We have heard Mr.N.Doraikannan, learned counsel appearing for the petitioner and Mr.N.Srinivasan, learned Special Government Pleader appearing for respondents 1 and 2.

3. The petitioner seeks for issuance of certiorarified mandamus to quash the proceedings of the second respondent dated 06.03.2017 and forbear the respondents 1 and 2 from conducting any survey in respect of the property in question, pursuant to a request made by the 3rd respondent, the writ petitioner's brother in terms of the notice issued by the second respondent dated 06.03.2017. This notice is impugned in this writ petition.

4. On a perusal of notice, it is seen that there is a reference to an order passed in W.P.No. 43041 of 2016 dated 10.01.2017. This writ petition was filed by the 4th respondent herein Tmt.C.Sulochana, wife of the 3rd respondent herein, praying for a direction to dispose of her representation dated 17.06.2016. This Court disposed of the writ petition by order dated 09.12.2016 without going into the merits of the matter and directing the representation to be considered in accordance with law after notice to all persons concerned in that matter.

5. Thus, it is seen that there is no positive direction issued by the Court for measuring the property. The second respondent has mis-interrupted the direction issued by this Court and quoted the order passed by the Court as if the Court has issued direction to measure the property and directed the parties i.e., 3rd respondent and the petitioner to appear with necessary documents. The question is whether the 2nd respondent can do so. If there is dispute with regard to title, possession and enjoyment of the property, the Revenue officials cannot interfere in the matter. This position is well settled. There are serious disputes between the petitioner and his brother (3rd respondent). The wife of the 3rd respondent is now appears to have been set up in earlier writ petition.

6. The learned counsel appearing for the petitioner brought to the attention of this Court that the petitioner has filed a suit in O.S.No.121 of 2017 on the file of Principle District Munsiff Court, Poonamallee, in which he sought for declaration and permanent injunction. In the said suit, an application for interim injunction in I.A.No. 384 of 2017 was filed and obtained an ex-parte interim injunction and after 3rd and 4th respondents entered appearance and contested the matter, the Court has made the injunction absolute till the disposal of the suit by order dated 27.08.2018. In this regard, learned counsel referred to paragraph 6 to 8 of the order to substantiate his argument that

civil dispute is pending and if the revenue authorities measure the property, it will prejudice the rights of the petitioner and it may have an impact on the civil proceedings. The objection raised by the petitioner prima facie appears to be correct because, the parties are already contesting the matter before a Civil Court, then the Revenue authority should await the outcome of the Civil proceedings.

7. As the writ petition is disposed of at this stage without notice to the 3rd and 4th respondent, this Court refrains from making any observation touching upon the merits of the respective claims of the parties.

8. In the light of the above, the writ petition is disposed of by directing the petitioner to file fresh petition before the second respondent enclosing all relevant documents including order passed in I.A.No. 384 of 2017 in O.S.No.121 of 2017 dated 27.08.2018. The second respondent is directed to issue notice to respondents 3 and 4 as well as the petitioner, consider the petitions and also take note of the observations made by this Court in this order and take a decision in accordance with law within a period of four(4) weeks from the date of receipt of a copy of this order. No costs. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The District Collector,
Thiruvallur,
Thiruvallur District,
Tamil Nadu.

2. The Tahsildar,
Maduravoyal Division,
Thiruvallur District.

+2cc to Mr.N.Doraikannan, Advocate sr.100290
+1cc to Government Pleader SR.NO. 100719

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