

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 14.11.2019

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE N.SESHASAYEE

WP.No.31959/2019

J.Janardhanan

Petitioner

Versus

1.The State of Tamil Nadu
rep.by its Principal Secretary to Government
Revenue Department, Fort St George
Chennai 600 009.

2.The District Collector
O/o.The Collectorate, Villupuram.

3.The District Revenue Officer
O/o.The District Revenue Office
Villupuram District.

4.Tahsildar,
Taluk Office, Tindivanam.

5.Kathuriammal

Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for a writ of mandamus directing the 2nd respondent to remove the encroachment in the subject matter of land situated at Survey No.1/1, measuring 0.69 cents at Aalagiramman Village, Tindivanam Taluk, Villupuram District and restore the Bhoomi Dhana cum Cart Track facility based on the document No.2302/1966 registered at the Sub Registrar's office, Mailam.

For Petitioner : Mr.T.Dhanasekaran

For RR1 to 4 : Mr.P.S.Sivashanmugasundaram
Special Government Pleader

ORDER

[Order of the Court was made by M.SATHYANARAYANAN, J.,]

- (1) By consent, the writ petition is taken up for final disposal. Mr.P.S.Sivashanmugasundaram, learned Special Government Pleader accepts notice on behalf of respondents 1 to 4.
- (2) It is the claim of the petitioner that the land in S.No.1/1, admeasuring to an extent of 0.69 acres at Aalagiramman Village, Tindivanam Taluk, Villupuram District, originally belong to one Thiru.Kuppusamy Chettiyar, who assigned the said land under 'Vinobha Bhoomidana Scheme' through a registered Document dated 05.12.1964 and subsequently, the said land, for the purpose of cart track, was registered as Document No.2306/1966 in favour of Perampattu Village.
- (3) The learned counsel for the petitioner would submit that right from that time, the said land is used as cart track by the petitioner as well as the residents of the locality for several decades and the relevant revenue records also vouch the said fact. It is the further submission of the learned counsel that the son of the 5th respondent herein, claimed to have purchased the said land through a registered Sale Deed dated 08.05.1985 and after his demise, the 5th respondent started claiming right over the said land and also put up an obstruction, preventing the public from using the said land as a pathway. The 5th respondent also filed a civil suit in OS.No.153/2018 on the file of the Court of District Munsif at Tindivanam against the respondents 2 and 4, praying for declaration that she is the owner of the land in Punja Suvey No.1/1, admeasuring to an extent of 0.69 acres, in Aalagiramman Village, and consequential permanent injunction, restraining the defendants from interfering with the peaceful possession and enjoyment of the said land the suit is still pending.
- (4) The petitioner, through her lawyer, had sent a legal notice dated 19.12.2018, to the respondents 1 to 4 as well as to the jurisdictional District Registrar and Sub Registrar as to the said fact and prayed for appropriate action and despite a lapse of nearly one year, no action has been taken to address the grievances expressed by the petitioner and hence, she is constrained to approach this Court by filing the present writ petition.
- (5) The Court has considered the arguments advanced by the learned counsel for the petitioner as well as the submissions of Mr.P.S.Sivashanmugasundaram, learned Special Government

Pleader appearing for respondents 2 to 4 and also perused the materials placed before it.

- (6) Admittedly, the civil suit in OS.No.153/2018 is pending on the file of the Court of District Munsif, Tindivanam, wherein the 5th respondent herein as plaintiff, had prayed for declaration of title and other consequential reliefs. It is also the case of the petitioner under Section 7 of the Tamil Nadu Bhoodan Yagna [Amendment] Act, 1964 [Tamil Nadu Act 34 of 1964], the suit itself is not maintainable and also would add that framing of the suit is also not maintainable.
- (7) Rightly or wrongly, the minor son of the 5th respondent claimed to have purchased the said property through a registered Sale Deed dated 08.05.1985 and the points urged by the learned counsel for the petitioner in this writ petition, would revolve around adjudication of disputed questions of fact and the petitioner, under the garb of this writ petition, wants to withdraw the suit before this Court and struck the plaint on the ground of maintainability and this Court, in the present facts and circumstances of the case, is not inclined to exercise the said jurisdiction. At this juncture, the learned counsel for the petitioner, on instructions, seeks leave of this Court to file a petition for impleadment to implead himself as well as the State of Tamil Nadu represented by the Principal Secretary to Government, Revenue Department, Secretariat, Chennai-600 009, as parties in the suit and also to file a petition for rejection of plaint.
- (8) If the petitioner is so advised and if it is available to him under law, he is always at liberty to work out his remedy in accordance with law and this Court is not expressing any opinion in this regard.
- (9) In the result, the writ petition is disposed of and if the petitioner is so advised and if it is available to him under law, he is at liberty to work out his remedies in the pending Civil Suit in OS.No.153/2018 instituted by the 5th respondent on the file of the Court of District Munsif, at Tindivanam. No costs.

सत्यमेव जयते

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

AP

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To

1.The Principal Secretary to Government,
State of Tamil Nadu
Revenue Department, Fort St George
Chennai 600 009.

2.The District Collector
O/o.The Collectorate, Villupuram.

3.The District Revenue Officer
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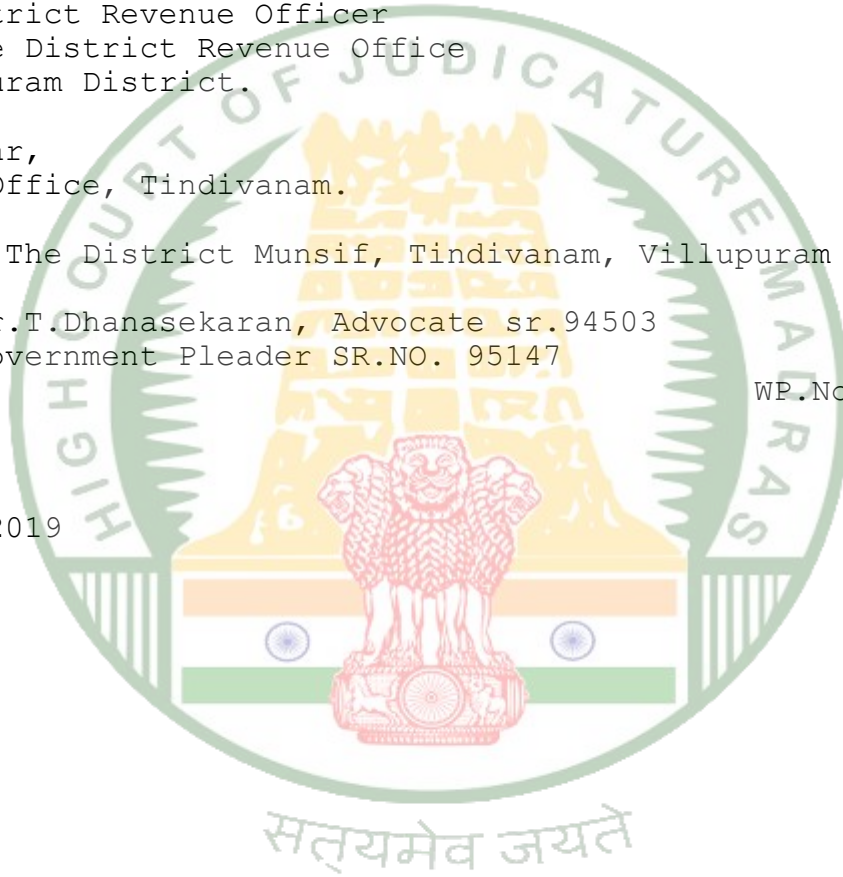
Copy to:- The District Munsif, Tindivanam, Villupuram District.

+1cc to Mr.T.Dhanasekaran, Advocate sr.94503

+1cc to Government Pleader SR.NO. 95147

WP.No.31959/2019

gp(co)
nr 20/12/2019



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