



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.09.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.SUNDAR

WEB COPY

W.P(MD)No.17910 of 2019

and

W.M.P(MD)Nos.14356 & 14357 of 2019

Nirmala

... Petitioner

vs.

1.The Revenue Divisional Officer,
Tiruchirappalli District.

2.The Thasildar,
Trichy East,
Tiruchirappalli District.

3.M.L.Balakrishnan

4.The Procurator,
The Society of St. Joseph' College,
Tiruchirappalli.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the records of the first respondent proceedings in Na.Ka.No.A7-1933-2017 dated 30.05.2019 and quash the same as illegal.

For Petitioner : Mr.S.Muthukrishnan

For Respondents : Mr.K.Mu.Muthu,
1 & 2 Additional Government Pleader.

ORDER

Mr.S.Muthukrishnan, learned counsel on record for writ petitioner and Mr.K.Mu.Muthu, learned Additional Government Pleader, who accepts notice on behalf of respondents 1 and 2 (official respondents) are before this Court.

2.To be noted respondents 3 and 4 are private respondents and from the submissions made before this Court, it comes to light that this Writ Petition can be disposed of by passing an order, which is not adverse to the rights of private respondents 3 and 4. Therefore, with consent of learned counsel for writ petitioner and State counsel, main writ petition is taken up, heard out and is being disposed of.



3.Nucleus of the lis is immovable property comprised in T.S.Nos.4 and 7 in Chinthamani Village, Tiruchirappalli District (hereinafter 'said property' for brevity).

4.Notwithstanding several averments made in the affidavit filed in support of the writ petition, notwithstanding several grounds raised / contentions canvassed in the affidavit filed in support of instant writ petition, learned counsel for writ petitioner focussed his submission in the hearing on one pivotal point and that one pivotal point is that the first respondent cannot deal with or proceed with an application for removing entries from or amending entries in the 'Survey Land Register' ('SLR' for brevity) qua said property when a civil suit is pending between the parties.

5.To be noted, proceedings before the first respondent / 'Revenue Divisional Officer' ('RDO' for brevity) has been initiated by the third respondent. These proceedings seek removal / amendment of certain names in SLR qua said property. Pursuant to a petition filed by the third respondent, first respondent has issued a notice dated 30.05.2019 bearing Reference No.Na.Ka.(A7)-1933-2017 (hereinafter 'impugned notice' for brevity) fixing the enquiry on 18.06.2019 at 04.00 p.m., and calling upon the parties to present themselves before him together with supporting documents.

6.It is submitted that these proceedings are in the teeth of a petition from the writ petitioner dated 17.04.2019 pointing out that a civil suit is pending qua said property. To be noted, civil suit is O.S.No.547 of 2018 on the file of II-Additional District Munsif's Court, Tiruchirappalli.

7.It is the specific and pointed out case of the writ petitioner that the aforesaid impugned notice dated 30.05.2019 has been issued notwithstanding writ petitioner bringing to the notice of the first respondent the pendency of the civil suit qua said property.

8.In support of his contention, learned counsel for writ petitioner placed before this Court an order made by a Honourable Single Judge of this Court dated 23.10.2017 in W.P.No.9215 of 2013 (*D.Srinivasan Vs. The District Collector and others*). Specific attention of this Court was drawn to paragraph No.17 of the said order, which reads as follows:

'17.Thus, it made clear that when the title regarding the property is sub judice before the competent civil Court, the Tahsildar / Appellate Authority cannot go into the question regarding the title of the property. Accordingly, no application needs to be entertained either for grant of patta or



modification of revenue records in this regard. Thus, the order passed by the Revenue Divisional Officer in proceedings dated 25.03.2013 is quashed and the writ petitioner as well as the other contesting respondents are at liberty to adjudicate the matter before the competent civil Court in O.S.No.189 of 2012 in respect of title of the property. Only after attaining finality in civil litigations the application seeking grant of patta or modification shall be entertained.'

9.Learned State counsel on behalf of official respondents 1 and 2 submits that the impugned notice is dated 30.05.2019 whereas, writ petitioner's petition before the first respondent is dated 17.04.2019. What is of relevance is, a perusal of 17.04.2019 petition which has been styled as 'vjph;kD ciu' refers to petition in Na.Ka.No.(A7) 1933-2017/2019 and this is the same reference which the impugned notice also bears.

10.Moreover, writ petitioner has described herself as fourth respondent in 17.04.2019 petition and a perusal of impugned notice reveals that the writ petitioner has been shown as fourth respondent / notice No.4. Therefore, there is a clear correlation between the impugned notice and 17.04.2019 counter petition of the writ petitioner before the first respondent.

11.Besides the aforesaid order made by a learned Single Judge of this Court, writ petitioner also drew the attention of this Court to a Circular being Circular dated 13.03.2019 bearing Reference No.K3/27160/2008 issued by the Additional Chief Secretary, Commissioner of Land Administration to all District Collectors, all District Revenue Officers and all Revenue Divisional Officers. Most relevant part of the circular is sub-paragraph 'd' of paragraph 3, which reads as follows:

'd.If any interested / contesting party has brought to the notice of the concerned authority about the pending suits over the disputed land with the objection supported by a declaration that a civil suit has been filed and is accompanied by an authenticated copy of the plaint, the concerned authority should not pass any orders. Instead, the parties concerned should be directed to seek remedy in the pending suits and approach the revenue authorities on the basis of decree and judgment of the civil Court.'

12.In the light of the narrative thus far, this Court is left with the considered view that instant writ petition can be disposed of directing the first respondent to defer all further proceedings pursuant to impugned notice and keep in abeyance impugned notice



till the disposal of the civil suit pending in O.S.No.547 of 2018 on the file of the II-Additional District Munsif's Court, Thiruchirappalli.

13.Instant Writ Petition is disposed of with the above direction. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(Crl. Side)

/TRUE COPY/

Sub Assistant Registrar

To

1.The Revenue Divisional Officer,
Tiruchirappalli District.

2.The Thasildar,
Trichy East,
Tiruchirappalli District.

+1 CC to M/s.S.MURHUKRISHNAN, Advocate (SR-85991[F] dated 09/09/2019)

+1 CC to M/s.GP (SR-86132[F] dated 10/09/2019)

W.P (MD) No.17910 of 2019
09.09.2019

ps

JM/25.09.2019/4P/5C