



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **01.11.2019**

CORAM:

THE HONOURABLE **MR.JUSTICE M.SUNDAR**

W.P(MD)No.23003 of 2019

and

W.M.P(MD)No.19743 of 2019

Rosammal Nadachy

... Petitioner

/vs./

1.The District Collector,
Kanyakumari District @ Nagercoil.

2.The Sub Registrar,
Tiruvattar Sub Registrar Office,
Thiruvattar,
Kanyakumari District.

3.N.Raja

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the 2nd respondent herein not to make any encumbrance on the schedule properties of O.S.No.180 of 2010 by violating the interim order of stay made in I.A.No.109 of 2017 in A.S.No.42 of 2017 on the file of Subordinate Court, Padmanabhapuram dated 22.09.2017 by altering and subdividing the original suit schedule survey numbers at the instance of the 3rd respondent herein considering the petitioner's representation made before him by RPAD dated 24.10.2019.

For Petitioner : Mr.B.Brijesh Kishore

For R-1 & R-2 : Mr.K.Mu.Muthu

Additional Government Pleader

ORDER

Mr.B.Brijesh Kishore, learned counsel on record for writ petitioner is before this Court.

2. Mr.K.Mu.Muthu, learned Additional Government Pleader, accepts notice on behalf of first and second respondents.

3. To be noted, third respondent is a private respondent. In the hearing, learned counsel for writ petitioner restricts the



prayer to disposal of representation. From the abridged prayer it comes to light that an order, which is not adverse to third respondent (private respondent) can be passed, after making sufficient and adequate safe-guards in this regard.

4. With consent of learned counsel on record for the writ petitioner and learned Additional Government Pleader, who accepts notice on behalf of first and second respondents (official respondents), main writ petition is taken up, heard out and is being disposed of.

5. The main writ petition turns on a very narrow compass, as it is one seeking mandamus qua disposal of writ petitioner's representation dated 24.10.2019 wherein writ petitioner has made some plea based on interim orders passed by a Civil Court in which official respondents are not parties.

6. Notwithstanding several averments made in the affidavit filed in support of the writ petition, notwithstanding several grounds raised / contentions urged in the affidavit filed in support of instant writ petition, learned counsel for writ petitioner (as mentioned supra) abridges the scope of instant writ petition and submits that it will suffice if the second respondent is directed to dispose of the aforementioned representation of the writ petitioner, dated 24.10.2019, details of which have been alluded to supra.

7. Learned State counsel submitted that the second respondent is the authority who shall consider the aforementioned representation dated 24.10.2019 made by the writ petitioner (page Nos.53 to 55 of the typed set of papers forming part of the case file).

8. The aforesaid representation dated 24.10.2019 shall be disposed of by the second respondent on its own merits and in accordance with law as expeditiously as possible and in any event, within a period of eight (8) weeks from the date of receipt of a copy of this order.

9. It is made clear that in the course of the representation being considered by the second respondent, if the rights of any other third party / parties or any other third party entity / entities is / are likely to be affected, the second respondent shall put on notice and give reasonable opportunity to such third party / parties or any other third party entity / entities, before disposing of the aforementioned writ petitioner's representation. Though obvious, it is made clear that this Court has not expressed any opinion or view on the merits of the matter. It is also made clear with specificity that third respondent has to be put on notice and given a reasonable opportunity by the second respondent before taking a decision. To be noted, this is a safety valve/safety

newspapers.in/law/ https://hcmca.courts.mv.in/law/ third respondent (private respondent) mentioned



elsewhere supra in this order. The authority concerned shall not embark upon any exercise which is within the domain of civil Court jurisdiction.

10. Though obvious, it is made clear that petitioner abridging the prayer will not tantamount to writ petitioner giving up the contentions raised in the writ petition. In other words, all contentions raised in the writ petition are left open.

11. The proceedings / order of disposal shall be communicated by the office of the second respondent to the writ petitioner and the third respondent under due acknowledgement within seven (7) working days from the date of completion of aforesaid exercise.

12. Instant Writ Petition is disposed of with the above directions. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar

To

1.The District Collector,
Kanyakumari District @ Nagercoil.

2.The Sub Registrar,
Tiruvattar Sub Registrar Office,
Thiruvattar,
Kanyakumari District.

+1 CC to M/s.P.VELMURUGAN, Advocate (SR-95545[F] dated 01/11/2019)

+1 CC to M/s.B.BRIJESH KISHORE, Advocate (SR-95703[F] dated 04/11/2019)

+1 CC to M/s.GP (SR-95972[F] dated 04/11/2019)

Order made in
W.P (MD) No.23003 of 2019
DATED: 01.11.2019
(2/2)

SM

MS/13-11-2019/3P.6C