

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.03.2020

CORAM

THE HON'BLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.7627 of 2012
and M.P.Nos.1, 2, 3 & 4 of 2012

Pattabiraman @ Thennarasu

...Petitioner

vs.

1.The Collector,
Cuddalore District,
Cuddalore.

2.The Tahsildar,
Taluk Office,
Panruti,
Cuddalore District.

3.The Inspector of Police,
Prevention of Land Grabbing Special Branch,
Cuddalore.

4.S.Saravanan ...Respondents

PRAYER: Writ Petition filed Under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records of the 3rd respondent by its proceedings C.No.191/ALGSC.CUD.2011 dated 27.02.2012, consequential proceedings of the 2nd respondent dated 09.03.2012 made in No.Na.Ka.D1/717/2012 and quash the same by forbearing the respondents or their men, officers, servants etc., or any body through them in any manner interfering with the peaceful possession and enjoyment of the schedule mentioned property.

For Petitioner : Mr.K.Moorthy

For Respondents: Ms.A.Madhumathi for R1 to R3
Special Government Pleader

Mr.N.Subramani for R4

O R D E R

Heard Mr.K.Moorthy, learned counsel appearing for the petitioner, Ms.A.Madhumathi, learned Special Government Pleader

appearing for the respondents 1 to 3 and Mr.N.Subramani, learned counsel appearing for the fourth respondent.

2.The petitioner seeks for an issuance of writ of certiorarified mandamus to quash the proceedings of the third respondent, who is the Inspector of Police, Land Grabbing Special Branch, Cuddalore and consequential notice issued by the second respondent the Tahsildar, Panrutti.

3.The matter concerns a dispute to an immovable property the petitioner claims exclusive right over the property. The fourth respondent is the rival claimant and it is submitted that he has transferred the property in favour of his wife in the year 2010 itself.

4.It is not in dispute that a suit has been filed by the petitioner and two others in O.S.No.13 of 2012, on the file of the District Munsif Court, Panrutti. The suit is for declaration of plaintiff's title over the suit property and for a decree of permanent injunction, the suit is pending. The learned Special Government Pleader on instructions submits that the suit is in trail stage and posted on 30.03.2020. When the writ petition was admitted on 26.03.2012 an interim order was granted.

5.The facts placed before this Court show that after the interim order was granted patta has been transferred. In any event, the third respondent, viz., Inspector of Police, Land Grabbing, Special Branch cannot give a finding with regard to title to the property. All that, he can enquire into is whether any unlawful means has been attempted to grab the persons property. Therefore, solely based upon a report of the third respondent, the second respondent could not have commenced an enquiry more particularly, when a suit is pending in respect of the title to the said property.

6.It is clear that the transfer of patta has been effected after the interim order has been granted in the writ petition. Therefore, it goes without saying that the entry which stood prior to the said date should be restored and the parties should be relegated to the Civil Court to establish their right title and interest over the suit property.

7.In the result, the writ petition is allowed and the impugned order is quashed and there will be a direction to the second respondent to restore the entries in the patta as it stood prior to the mutation in the name of the fourth respondent and no further mutation shall be effected in the revenue records.

8.Further, the Tahsildar shall not effect any mutation in the revenue records. The petitioner as well as the fourth respondent and his wife are restrained by an order of injunction not to create any encumbrance on the suit property.

9.It is open to the petitioner and the fourth respondent or his wife to agitate their rights in the pending civil suit by letting in oral and documentary evidence. The Civil Court shall decide the case based on the oral and documentary evidence and shall not be in any manner influenced by any observation made by the third respondent in the impugned order which has been quashed.

10.With the above observation, this Writ petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-III)

//True copy//

Sub Assistant Registrar

pam

To

- 1.The Collector,
Cuddalore District,
Cuddalore.
- 2.The Tahsildar,
Taluk Office,
Panruti,
Cuddalore District.
- 3.The Inspector of Police,
Prevention of Land Grabbing Special Branch,
Cuddalore.

+1cc to Mr.K.Moorthy, Advocate SR.No.22619

+1cc to Mr.S.N.Subramani, Advocate SR.No.21489

+1cc to Government Pleader SR.No.22158

W.P.No.7627 of 2012

MRJK (CO)
GMY (10/06/2020)