

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 03.08.2020

CORAM:

THE HON'BLE MR.JUSTICE M.DURAI SWAMY

W.P.No.746 of 2013 and

M.P.No.1 of 2013

K.Ponnusamy

... Petitioner

v.

1. The District Collector,
Namakkal District,
Namakkal.

2. The District Revenue Officer,
Namakkal District,
Namakkal.

3. The Revenue Divisional Officer,
Tiruchengode,
Namakkal District.

4. The Thasildar,
Tiruchengode Taluk,
Tiruchengode.

5. Nallan

6. Venkatachalam

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents 3 and 4 to demarcate and subdivide the properties at S.Nos. 36/1D, 36/1E and 36/1F5B as per the respective sale deeds.

For Petitioner
For Respondent

:Mr.R. Jayaprakash
:Ms. A. Mathumathi,
Special Govt. Pleader-for R1 to R4
Mr. N. Manoharan - for R5
No Appearance - for R6

O R D E R

The petitioner has filed the above Writ Petition to issue a Writ of Mandamus, directing the respondents 3 and 4 to demarcate and subdivide the properties at S.Nos. 36/1D, 36/1E and 36/1F5B as per the respective sale deeds.

2. Admittedly, the petitioner filed a Civil Suit in O.S.No.67 of 2008, on the file of the District Munsif Court, Tiruchengode, against the respondents 5, 6 and also the son of the 5th respondent, for declaration and permanent injunction. During the pendency of the suit, the petitioner choose to file the present Writ Petition in the year 2013 seeking for the releif as mentioned above.

3. When the Civil Suit is pending for declaration and permanent injunction, the Writ Petition filed by the petitioner cannot be entertained for the reason that he cannot prosecute two parallel proceedings.

4. It is brought to the notice of this Court that the suit filed by the petitioner was dismissed for non prosecution on 08.07.2015.

5. Mr. N.Manokaran, learned counsel appearing for the 5th respondent submitted that the Writ Petition filed by the petitioner is not maintainable for the reason that the petitioner has chosen to file a Civil Suit for a comprehensive relief and having allowed the suit to be dismissed for non prosecution, he cannot get a relief in the present Writ Petition.

6. I agree with the submissions made by the learned counsel appearing for the 5th respondent. When the petitioner has filed the Civil Suit in the year 2008 and during the pendency of the suit, he could not have filed the Writ Petition seeking for a direction to the respondents. In such view of the matter, I am not inclined to entertain the Writ Petition. Accordingly, the Writ Petition is dismissed. However, it is open to the petitioner to file an application for restoring the suit in O.S.No.67 of 2008, which was dismissed for non prosecution in the year 2015. No costs. Consequently, the connected Miscellaneous Petition is closed.

s/d-

Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

To

1. The District Collector,
Namakkal District,
Namakkal.
2. The District Revenue Officer,
Namakkal District,
Namakkal.
3. The Revenue Divisional Officer,
Tiruchengode,
Namakkal District.
4. The Thasildar,
Tiruchengode Taluk,
Tiruchengode.

+1 CC to Mr.N. Manokaran, advocate sr 25891.

+1 Cc to Govt. Pleader sr 2619.

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M.P.No.1 of 2013

EV (CO)

SP(13/08/2020)



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