

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:25.08.2020

CORAM:

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

W.P.No.11480 of 2020
and
WMP Nos.14015 and 14017 of 2020

R.P.Desamani

...Petitioner

Vs.

- 1 The District Revenue Officer
Namakkal District
Namakkal.
- 2 The Revenue Divisional Officer
Thirechengodu
Namakkal District.
- 3 The Tahsildar
Kumarapalayam Taluk
Komarapalayam
Namakkal District.
- 4 The Block Development Officer
Kaliyanur Panchayat union office
Kumarapalayam Taluk
Kaliyanur Village
Pallipalayam
Namakkal District.
- 5 The Deputy Superintendent of Police
Tiruchengode
Namakkal District.
- 6 The Inspector Of Police
Pallipalayam Police Station
Namakkal District.
- 7 Ravi @ Kulanthaivel
- 8 K.Sivasubramanian
- 9 K.Haribaskar
- 10 K.T.Loganathan
- 11 S.Palanisamy
- 12 R.Mani
- 13 M.Viswanathan

14 R.Rajendran
15 Muthusamy Gounder
16 Ananda Krishnan
17 M. Saroja

...Respondents

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the 1st respondent to dispose the stay application filed along with the appeal/revision filed by the petitioner dated 12.08.2020 till then not to permit the respondents 2 to 17 or his men from entering into the Tar road laid in the patta land of the petitioner in S.Nos.22/1, 22/2, 23/2A, 23/2B and 23/3C of Kaliyanur Village, Kumarapalayam Taluk, Namakkal District.

For Petitioner : Mr.S.Doraiswamy

For Respondents 1 to 4: Mrs. Narmadha Sampath
Additional Advocate General
assisted by
Mr.E.Balamurugan
Special Government Pleader

For Respondents 5 & 6: Mr.E.Balamurugan
Special Government Pleader

ORDER

The present Writ Petition has been filed for the issuance of a Writ of Mandamus directing the first respondent to dispose of the Appeal and Stay Petition filed by the petitioner on 12.08.2020 within a time frame fixed by this Court and for a further direction not to permit respondents 2 to 17 from interfering with the subject property of the petitioner.

2. Mr.S.Doraiswamy, learned counsel appearing on behalf of the petitioner submitted that the petitioner is the absolute owner of the subject property. Certain gift deeds were executed as if certain lands were given free of cost to the second respondent. The petitioner has already filed a suit in O.S.No.100 of 2019 before the District Munsif, Thiruchengode, to declare the said gift deeds as null and void and also for permanent injunction. It is also seen that the Interlocutory Application has been filed in I.A.No.3 of 2019 seeking for an order of interim injunction and the said application is also pending.

3. The learned counsel further submitted that the second respondent issued a notice for an enquiry and the petitioner also submitted all the relevant documents in order to prove that

the petitioner is the real owner of the property and also the pathway and respondents 8 to 17 only have a right to use the pathway. The learned counsel submitted that the second respondent passed an order on 22.07.2020 rejecting the claim made by the petitioner. Aggrieved by the same, the petitioner has filed an Appeal before the first respondent. The learned counsel submitted that when the Appeal was pending, the respondents are now taking steps to lay a tar road in the patta land belonging to the petitioner. Aggrieved by the same, the present Writ Petition has been filed before this Court.

4. Mrs.Narmadha Sampath, learned Additional Advocate General appearing on behalf of the respondents 1 to 4 submitted that the subject property has already been gifted to the authority and the petitioner has no right over the property and when an attempt was made to lay a tar road, it was resisted by the petitioner. The learned Additional Advocate General further submitted that the suit filed by the petitioner in O.S.No.100 of 2019 is still pending and till the gift deed is declared to be null and void, the petitioner will not have any right to resist the authority from utilising the land. The learned Additional Advocate General further submitted that the enquiry in the application is also fixed before the first respondent - District Revenue Officer on 07.09.2020. Therefore, the learned Additional Advocate General submitted that the contentions raised by the petitioner in this Writ Petition can be raised before the first respondent and there is no requirement for this Court to go into the merits of this case.

5. Taking into consideration the facts and circumstances of the case and the fact that the first respondent has already fixed a date for enquiry to hear the Appeal filed by the petitioner, this Court, without going into the merits of the case, deems it fit to issue a direction to the first respondent to consider the Appeal filed by the petitioner and pass appropriate orders strictly in accordance with law within a period of eight weeks from the date of receipt of a copy of this order.

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

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

mra

To

- 1 The District Revenue Officer
Namakkal District
Namakkal.
- 2 The Revenue Divisional Officer
Thirechengodu
Namakkal District.
- 3 The Tahsildar
Kumarapalayam Taluk
Kumarapalayam
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- 4 The Block Development Officer
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Namakkal District.
- 5 The Deputy Superintendent of Police
Tiruchengode
Namakkal District.
- 6 The Inspector Of Police
Pallipalayam Police Station
Namakkal District.

+1 cc to M/s. S.Doraisamy, Advocate Sr.No. 29600
+1 cc to The Government Pleader, Sr.No. 28047

सत्यमेव जयते

W.P.No.11480 of 2020
and

WMP Nos.14015 and 14017 of 2020

SSV(CO)
RMP(29/10/2020)

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