

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.09.2020

CORAM

THE HONOURABLE MR.JUSTICE N. ANAND VENKATESH

WP.No.13163 of 2020 &
WMP.No.16297 of 2020

Malar @ D. Malarkodi

... Petitioner

Vs.

1. The Revenue Divisional Officer,
Thiruchengode, Namakkal District.
2. Savithri

... Respondents

Prayer: Writ Petition filed under Section 226 of Constitution of India praying for issuance of Writ of Mandamus forbearing the 1st respondent from passing any final order in pursuant to the summon proceedings in Na.Ka.No.1935/2020/Uu, daed 04.09.2020 till the disposal of the Civil Suit in O.S.No.4 of 2020 on the file of the Principal/Additional District Munsif, Tiruchengode, Namakkal District.

For Petitioner : Mr.C. Prakasam

For Respondents: Mr.Mani Gopi
Govt. Advocate for R1

O R D E R

This Writ Petition has been filed for the issuance of Writ of Mandamus forbearing the 1st respondent not to pass any final order in the proceedings that have been initiated till a final judgment and decree is passed in O.S.No.4 of 2020.

2. The specific case of the petitioner is that the petitioner became the owner of the subject property by virtue of a registered Sale Deed dated 28.06.2004. The total extent of the property is 2175 sq. ft. and it has been mentioned in the schedule as 1025 sq.ft. The petitioner in order to substantiate his contention, pointed out the earlier Sale Deed executed in favour of the vendor of the petitioner, wherein, it is mentioned that the total extent of the property is 2175 sq.ft.

3. The further case of the petitioner is that the 2nd respondent was attempting to encroach upon the property belonging to the petitioner and therefore the petitioner filed O.S.No.4 of 2020 against the 2nd respondent and four others seeking for the relief of permanent injunction and this suit is pending. During the pendency of the suit, the 1st respondent has proceeded to initiate proceedings for grant of patta in favour of the 2nd respondent and others. Aggrieved by the same, the present Writ Petition has been filed before this Court.

4. Mr. C. Prakasam, learned counsel for the petitioner submitted that the petitioner is taking steps to amend the plaint and to seek for the relief of declaration of title and since the trial court is not properly functioning, the petitioner is not able to get the application numbered and heard.

5. The learned counsel further submitted that the 1st respondent is aware about the pendency of the suit and in spite of the same, the 1st respondent is proceeding further in a hasty manner.

6. Mr. Mani Gopi, learned Govt. Advocate appearing on behalf of the 1st respondent submitted that the 1st respondent will take into consideration the objections raised by the petitioner. The learned counsel further submitted that the petitioner cannot restrain the 1st respondent from proceeding further with the enquiry based on mere apprehensions. Therefore, the learned counsel sought for the dismissal of this Writ Petition.

7. The specific case of the petitioner is that the total extent of the subject property is 2175 sq.ft. and by mistake, it was mentioned as 1025 sq.ft in the sale deed executed in favour of the petitioner on 28.06.2004. In order to substantiate this submission, the earlier sale Deed executed in favour of the vendor of the petitioner has been brought to the notice of this Court and it is mentioned in the said sale deed that the total extent of the property is 2175 sq.ft. The petitioner has been issued with a patta on 29.11.2006 for an extent of 0.01.0 hectares. The apprehension of the petitioner is that the 1st respondent is not taking into consideration the pending suit before the concerned Civil Court and is proceeding further to conduct the enquiry. It is merely an apprehension in the mind of the petitioner. The 1st respondent at the time of enquiry will take into consideration the title documents given by both sides and also the actual extent of the property enjoyed by the respective parties. If the petitioner is taking steps to amend the plaint in the suit, the same can also be brought to the notice of the 1st respondent. The 1st respondent as the statutory

authority will take into consideration all the relevant documents and pass orders. This Court, cannot restrain a statutory authority from performing his function by issuing a Writ of Mandamus. The statutory authority is expected to know the jurisdiction vested in him before passing final orders. This Court is not inclined to interfere with the proceedings.

8. This Writ Petition is disposed of accordingly. No costs. Consequently, the connected W.M.P.No.16297 of 2020 is closed.

Sd/-
Assistant Registrar(L.A)

//True Copy//

Sub Assistant Registrar

msr
To

The Revenue Divisional Officer,
Thiruchengode, Namakkal District.

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WMP.No.16297 of 2020

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