

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.10.2020

CORAM

THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

W.P.No.14537 of 2020
(Heard through VC)

Venkatachalam

.. Petitioner

Vs.

1.The District Collector,
Vengikal, Thiruvannamalai,
Thiruvannamalai District.

2.The Sub Divisional Executive Magistrate Cum
The Revenue Divisional Officer,
Thiruvannamalai,
Thiruvannamalai District.

3.The Sub Registrar,
Thanipadi,
Thiruvannamalai District.

4.Arumugam

5.Govindammal

6.Settu

... Respondents

PRAYER: Writ Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the 1st respondent to consider the petitioner representation dated 02.09.2020 and to dispose of the said appeal filed by the petitioner against the order passed by the 2nd respondent dated 26.08.2019 in case No.9041 of 2018 together with the communication of the 3rd respondent vide his letter No.150 of 2019 dated 04.10.2019 along with an interim injunction application seeking a direction against the 4th and 5th respondent to not encumber the said property pending disposal of the appeal within a stipulated time period fixed by this Court.

For Petitioner : Mr.M.Senthil Vadivu

For RR1 to 3 : Mr.R.S.Selvam
Government Advocate

O R D E R

The writ petition has been filed seeking a direction to the 1st respondent to consider the petitioner's representation dated 02.09.2020 and to dispose of the appeal filed by him against the order passed by the 2nd respondent dated 26.08.2019 in case No.9041 of 2018 together with the communication of the 3rd respondent vide his letter No.150 of 2019 dated 04.10.2019 along with an interim injunction application seeking a direction against the 4th and 5th respondent to not encumber the said property pending disposal of the appeal.

2. The petitioner is the son of fourth and fifth respondents herein. The sixth respondent is the elder brother of the petitioner. The property comprised in Survey No.163/1 situated at Pudur Chekidi Village, Thandarampet Taluk, Thiruvannamalai District was originally belonged to the respondents 4 and 5 herein and the petitioner's family members were in joint possession and enjoyment of the said property. Subsequently, the respondents 4 and 5 had jointly executed two irrevocable settlement deeds in favour of the petitioner and the sixth respondent. Since there was a dispute arose between the respondents 4 and 5 and the petitioner's father-in-law in respect of the pathway, the respondents 4 and 5 had given representation to the second respondent under Section 5 of the Tamil Nadu Maintenance and Welfare of Parents and Senior Citizen Rules, 2007 against the petitioner and the sixth respondent seeking a relief for maintenance. The second respondent had passed an order dated 26.08.2019 in case No.9041 of 2018 declaring that the settlement deed executed by the respondents 4 and 5 in favour of the petitioner and the sixth respondent are null and void and the same was cancelled and further directed the petitioner to handover the property to the respondents 4 and 5. Pursuant to the order passed by the second respondent, the third respondent vide his proceedings in letter No.150/2019 dated 04.10.2019 had cancelled the entries made in the revenue records in respect of the settlement deed.

2.1. Aggrieved by the order passed by the second and third respondents, the petitioner preferred an appeal before the first respondent on 03.08.2020. During the pendency of the appeal, the respondents 4 and 5 are taking emergent steps to alienate the property to the third parties and further obstructing the petitioner to enter into the land for doing agricultural work. Hence, the petitioner has filed an interim application before the first respondent seeking an injunction restraining the respondents 4 and 5 from encumbering the said property pending disposal of the said appeal. However, the first respondent has not taken any steps. Therefore, the petitioner made a detailed representation dated 02.09.2020 to the first respondent to conduct proper enquiry and to dispose of the said appeal. But till date, there was no response.

Hence, the present writ petition has been filed.

3. Heard both sides and perused the materials available on record.

4. Considering the facts and circumstances of the case and the submissions made on either side, this Court, without expressing any opinion on the merits of the case, directs the first respondent to consider the petitioner's representation dated 02.09.2020 and the appeal filed against the order of the second respondent dated 26.08.2019 in Case No.9041 of 2018, enquire into the same and pass appropriate orders, on merits and in accordance with law, after issuing notice to the petitioner, as well as the respondent Nos.4 to 6 herein and by affording them an opportunity of personal hearing or virtual hearing or otherwise, considering their written objections and after verifying the relevant documents, within a period of four weeks from the date of receipt of a copy of this order.

5. With the above directions, this writ petition is disposed of. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

rsi/asr

To

- 1.The District Collector,
Vengikal, Thiruvannamalai,
Thiruvannamalai District.
- 2.The Sub Divisional Executive Magistrate Cum
The Revenue Divisional Officer,
Thiruvannamalai,
Thiruvannamalai District.
- 3.The Sub Registrar,
Thanipadi,
Thiruvannamalai District.

+lcc to the Government Pleader, SR.34758

W.P.No.14537 of 2020

MP (CO)
CB(10/11/2020)