

In the High Court of Judicature at Madras

Dated : 05.3.2020

Coram

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.14864 of 2017 &
WMP.Nos.16107, 16108, 33676 & 33677 of 2017

P.Pachamuthu

...Petitioner

Vs

1.The District Collector, Dharmapuri
District, Dharmapuri-636705.

2.The Revenue Divisional Officer,
Dharmapuri District, Dharmapuri - 636701.

3.The Tahsildar, Palacode Taluk,
Palacode, Dharmapuri District - 636808.

4.Mariappan

...Respondents

PETITION under Article 226 of The Constitution of India praying for issuance of a Writ of Mandamus forbearing the 3rd respondent from conducting any enquiry in pursuant of the notice made in Na.Ka.No.2320/ 2017/E6 dated 08.5.2017 issued by the 3rd respondent and consequently interfering with the petitioner's possession and enjoyment or removing the name of the petitioner in patta No.366 relating to the land comprise in S.No. 141/1 situated at Chikkarthanahalli Village, Palacode Taluk, Dharmapuri District.

For Petitioner : Mr.P.Mani for Mr.G.Ethirajulu
For Respondents 1 to 3 : Mr.A.Madhumathi, SGP
For Respondent-4 : Mr.S.Saravakumar for
Mr.Abrar Md.Abdullah

ORDER

I have the learned counsel for the parties.

2. The petitioner has filed this writ petition challenging a notice issued by the third respondent calling upon the petitioner to attend an enquiry in respect of an application given by the fourth respondent for grant of patta in the name of a temple.

3. The main contention raised by the petitioner is that civil proceedings are pending and that therefore, the Revenue Authorities should not cause any enquiry concerning the subject property at the instance of the fourth respondent seeking for grant of patta in the name of a temple.

4. The parties are before the civil court and as of now, the petitioner has not been able to succeed in the civil proceedings and there are two appeals pending namely (i) S.A.No.17 of 2015 before this Court and (ii) A.S.No.26 of 2016 on the file of the Subordinate Court, Dharmapuri. In both the suits, a declaratory relief was sought for and it had been rejected.

5. The fourth respondent, who is stated to have represented the trustees of the temple, submitted that the petitioner's maternal uncle's daughter one Mrs.Madhammal filed the suit in O.S.No.148 of 2005 on the file of the District Munsif Court, Palacode seeking a declaratory relief and it was dismissed by judgment and decree dated 30.9.2010 and it was confirmed by the First Appellate Court in A.S.No.1 of 2011 on the file of the Additional District Court, Dharmapuri by judgment and decree dated 16.9.2014, as against which, and S.A.No.17 of 2015 is pending on the file of this Court.

6. The learned counsel for the petitioner submits that the property, which is the subject matter of the suit filed by the petitioner's paternal uncle's daughter - the said Ms.Madhammal is a different property.

7. However, this submission is denied by the learned counsel for the fourth respondent.

8. Under normal circumstances, this Court would not entertain a writ petition against an enquiry notice. However, considering the fact that there are serious disputes raised and also the fact that as of now, the petitioner has not been successful in obtaining any decree from the civil court, if any enquiry is to be ordered at this juncture, especially when the appeals are pending both before Lower Appellate Court and before this Court, it may result in parallel proceedings, may complicate the issues and may cause several problems in the locality. Therefore, this Court is of the view that the proceedings initiated by the third respondent should be deferred and await the outcome of the decision in A.S.No.26 of 2016 on the file of the Subordinate Court, Dharmapuri.

9. The learned counsel appearing for the fourth respondent submits that taking advantage of the fact that the patta stands in the name of the petitioner, he is attempting to alienate the property in question.

10. However, it is submitted by the learned counsel for the petitioner that patta was never granted in the names of the his forefathers and that the patta as well as the A register mention the name of one Mr.Ooru Gounder, which, according to the fourth respondent, is a patta granted in a representative capacity.

11. However, all these issues can be thrashed out before the civil court. In order to ensure that the property is preserved, this Court is inclined to issue suitable orders restraining the petitioner from in any manner dealing with the property or alienating the property or changing its physical features and also directing the petitioner to await the outcome of A.S.No.26 of 2016 on the file of the Subordinate Court, Dharmapuri.

12. Accordingly, the writ petition is disposed of by directing the third respondent to defer the proceedings initiated pursuant to the notice dated 08.5.2017 and await the outcome of A.S.No.26 of 2016 on the file of the Subordinate Court, Dharmapuri. In the meantime, the petitioner shall not alienate the property in question and there shall be no mutation in the revenue records. It is made clear that whatever the name prevailing in the revenue records shall continue to be maintained till a decision is taken by the First Appellate Court. No costs. Consequently, all connected pending WMPs are closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

RS

सत्यमेव जयते

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To

1.The District Collector, Dharmapuri District,
Dharmapuri-636705.

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Dharmapuri. 636701.

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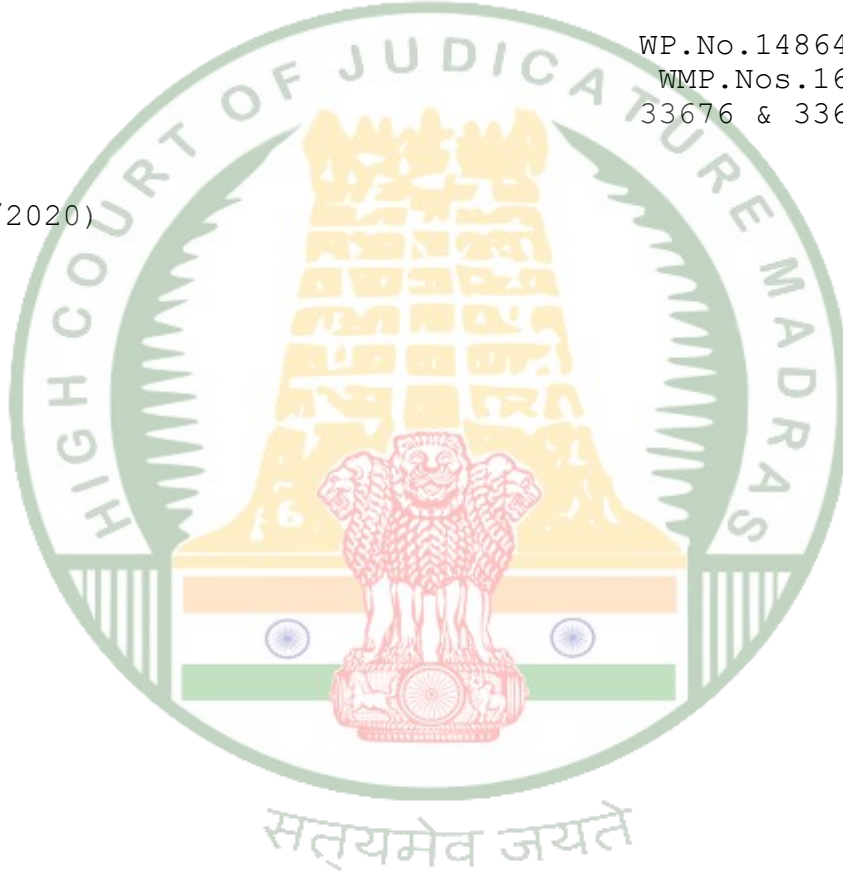
+1 CC to Mr.G.Ethirajulu, Advocate, sr 19645

+1 CC to Mr.I.Abrar Md Abdullah, Advocate, sr 19611

+1 CC to Government Pleader, High Court, Madras sr 20231

WP.No.14864 of 2017 &
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33676 & 33677 of 2017

RSK (CO)
AT (22/05/2020)



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