



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.12.2020

CORAM

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

W.P. (MD)No.18209 of 2020

and W.M.P. (MD) Nos.15195, 15196, 15198/2020

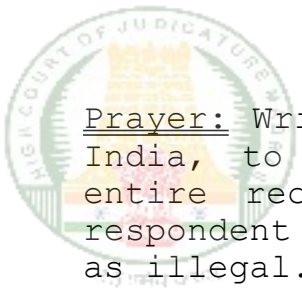
Mohamed Ali

... Petitioner

-Vs-

1. The State of Tamilnadu
Rep. by its Secretary to the Government
Revenue Department
Secretariat, St. George Fort,
Chennai - 9.
2. The Commissioner of Land Survey,
PWD Estate, Chepauk,
Triplicane, Chennai.
3. The District Collector,
Thoothukudi District,
Thoothukudi.
- 4 The Assistant Director of Survey
and Land Records,
Collectorate,
Thoothukudi,
Thoothukudi District.
- 5 The Tahsildar,
Srivaikundam,
Thoothukudi District.
- 6 Muthuramalingam
7. The Sub Registrar
Srivaikundam SRO Office,
Srivaikundam
Thoothukudi District.
8. The Assistant Engineer,
TANGEDCO Srivaikundam
Thoothukudi District.

... Respondents



Prayer: Writ Petition is filed under Article 226 of Constitution of India, to issue a writ of Certiorarified Mandamus, to call for entire records pertaining to impugned notice issued by the 5th respondent in Na.Ka.A9/3624/2020 dated 19.09.2020 and quash the same as illegal.

WEB COPY

For Petitioner : Mr.P.M.Vishnuvarthanan

For Respondents : Mr.K.P.Krishnadoss
Special Government Pleader

ORDER

The writ petition has been filed challenging the impugned notice issued by the 5th respondent dated 19.09.2020.

2.Heard the learned counsel for the petitioner and the learned Special Government Pleader appearing for the respondents 1 to 5, 7 and 8. By consent of both sides, the writ petition is taken up for final hearing. Since no adverse order is going to be passed against the 6th respondent, notice to the 6th respondent is dispensed with.

3.According to the petitioner, the land in S.Nos.317, 329/1, 329/2, 329/3A, 329/3B, 329/4 and 329/5 were allotted to the petitioners by the Government, where the minority people have been granted patta and they are paying necessary taxes in this regard and constructed houses in their respective lands. However, the 6th respondent, who has no right whatsoever, made a false allegation that the properties in question do not belong to the said Masjid. Pursuant to the same, the petitioner instituted a suit in O.S.No.79 of 2020. While so, the 5th respondent, without proper enquiry and without application of mind, entertained the complaint/claim petition presented by the 6th respondent and issued the impugned notice, thereby directing the petitioner to stop the construction in the aforesaid survey numbers. Challenging the said order, the petitioner is before this Court.

3.1.When the writ petition is taken up for hearing, the learned Special Government Pleader submitted that fraudulent document has been created by the petitioner. It is further submitted that the petitioner has also preferred an appeal dated 01.10.2020 to the Sub Collector, which is pending. He would further submit that without adjudicating the appeal, which is pending before the Sub Collector, the petitioner has filed the present writ petition.

4.This Court is not inclined to go into the various contentions raised by the parties in the present writ petition. It is seen that the petitioner has already preferred an appeal before the Sub Collector on 01.10.2020.



5.The petitioner cannot ride two horses at a time, one by filing an appeal and the other by filing a writ petition. In case, any adverse orders are passed in the writ petition, the appeal will not stand. Hence, reserving the rights of the parties with regard to the issue in question and giving liberty to the petitioner to raise all the grounds available to him, which have been taken in the writ petition, apart from filing additional document in support of his claim before the appellate authority, the appellate authority is directed to take a decision within a period of 60 days from the date of receipt of a copy of this order. However, it is made clear that till the issue is decided, no further construction shall take place. At this juncture, it is represented by the learned Special Government Pleader that the Tahsildar has already been instructed to the effect that no further construction shall take place in the land in question.

6. With the aforesaid direction, the writ petition is disposed of. No costs. Consequently connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

RR

Note:In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The Secretary to the Government
State of Tamilnadu
Revenue Department
Secretariat, St. George Fort,
Chennai - 9.
2. The Commissioner of Land Survey,
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Triplicane, Chennai.



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Srivaikundam
Thoothukudi District.

7. The Assistant Engineer,
TANGEDCO Srivaikundam
Thoothukudi District.

+1cc to Mr.P.M.Vishnuvarthanan, Advocate Sr.No.25175

+1cc to Special Government Pleader Sr.No.25422

Order made in
W.P. (MD) No.18209 of 2020

11.12.2020

SSS (CO)

NR (19/01/2020) 4P : 10C