



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 30.12.2020

CORAM

THE HON'BLE Mr. JUSTICE P.VELMURUGAN

W.P. (MD)No.19967 of 2020

and

W.M.P (MD)Nos.16624 & 16625 of 2020

WEB COPY

V.Gopalsamy

.. Petitioner

Vs.

1.The Tahsildar,
Madurai North Taluk,
Madurai.

2.The Head Taluk Surveyor,
Madurai North Taluk,
Madurai.

3.A.Mani

.. Respondents

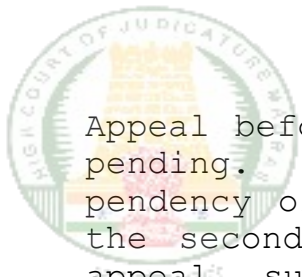
Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the first respondent in his impugned notice, dated 22.12.2020 to measure the land bearing S.No's.11/1 and 12/1 situated at Kadavoor Village, Madurai North Taluk, Madurai and quash the same and further direct the first respondent not to measure the above said lands on subsequent dates.

For Petitioner : Mr.PT.S.Narendravasan

ORDER

The petitioner has filed the present writ petition challenging the notice issued by the first respondent, dated 22.12.2020.

2. The learned counsel appearing for the petitioner would submit that originally one Temple, namely, Arulmighu Alagu Nachiamman Koil, Kadavoor Village, represented through its Poosari A.Karuppanan and 5 others filed a suit in O.S.No.718 of 1993 before the I Additional Sub Court, Madurai against the petitioner and 10 others for declaration to declare the sale deed executed by the defendants 6 to 8 in favour of the defendants 1 to 5 as null and void and recovery of possession. The said suit was transferred to the District Munsif Court, Melur and re-numbered as O.S.No.376 of 2004. After full trial, the learned District Munsif, Melur dismissed the suit on 01.10.2010. Challenging the said judgment and decree passed by the learned District Munsif, Melur, the Temple filed an appeal in A.S.No.9 of 2019 before the Sub Court, Melur. After hearing the appeal, the appeal was allowed on merit on 20.12.2019. As against the said judgment and decree passed in the appeal suit, the petitioner herein and three others filed a Second



Appeal before this Court in S.A(MD)No.530 of 2020 and the same is pending. The third respondent has very well known about the pendency of the second appeal as he has already filed a Caveat in the second appeal. With the knowledge of pending of the second appeal, suppressing the same, with *malafide* intention, the third respondent filed a writ petition in W.P(MD)No.19120 of 2020 on 16.12.2020 without impleading the petitioner herein as a party in the said writ petition, seeking a direction to the first respondent to consider his representation.

3. When the said writ petition came up for hearing on 23.12.2020, this Court allowed the writ petition with a direction to consider the representation of the petitioner and further directed the first respondent to measure the property in S.No's.11/1 and 12/1 situated at Kadavoor Village, Madurai North Taluk, Madurai. Therefore, the first respondent issued a notice on 22.12.2020 stating that they are going to measure the said property on 28.12.2020 at about 10.00 a.m.,

4. Since the third respondent, suppressing the pendency of the second appeal before this Court, filed a writ petition in W.P(MD) No.19120 of 2020 and obtained an order behind his back and the first respondent issued a notice on 22.12.2020 stating that they are going to measure the property on 28.12.2020 at about 10.00 a.m, the petitioner has filed the present writ petition seeking for the above stated relief.

5. The relief sought for by the writ petitioner is to quash the impugned notice issued by the first respondent, dated 22.12.2020. However, the first respondent issued notice on 22.12.2020 stating that they are going to measure the property on 28.12.2020 at about 10.00 a.m. Since the said period is already over, nothing survives for further adjudication in this writ petition. Therefore, the writ petition is dismissed as infructuous. No costs. Consequently, connected miscellaneous petitions are closed.

6. The second appeal in S.A(MD)No.530 of 2020 is pending before this Court regarding the title of the property. Therefore, the petitioner is at liberty to work out his remedy in the second appeal, which is pending before this Court.

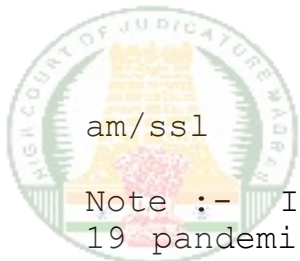
Sd/-

Vacation Officer ()

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



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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 Tahsildar,
Madurai North Taluk,
Madurai.
- 2.The Head Taluk Surveyor,
Madurai North Taluk,
Madurai.

+1 CC to M/s.SPL GP (SR-1[F] dated 04/01/2021)

W.P. (MD) No.19967 of 2020
30.12.2020

MJ(CO)
KB(07.01.2021) 3P 4C