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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 5.8.2021.

CORAM

THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN

W.P.No.13994 of 2021
and
W.M.P.No.14864 of 2021

R.Nithyanandam

Petitioner

vs.

1. The Collector,
Tiruvallur District,
Tiruvallur 602 001.
2. The District Revenue Officer,
Tiruvallur Collectorate Office,
Tiruvallur 602 001.
3. The Revenue Divisional Officer,
Tiruvallur Collectorate Office,
Tiruvallur 602 001.
4. The Tahsildar,
Tiruvallur Taluk,
Tiruvallur District.
5. T.Rajkumar

Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking to issue a writ of certiorari to call for the records of the 3rd respondent in reference No.Na.Ka.945/2021/A7 dated 10.6.2021 and quash the same.

For Petitioner : Mr.Jaikumar Ranganathan

For RR1 to 4 : Mr.Yogesh Kannadasan,
Government Advocate

ORDER

The writ petition has been filed questioning the notice issued by the third respondent which is undated, but, directing



the writ petitioner herein to appear for enquiry based on a complaint given by the fifth respondent, on 22.6.2021 alongwith relevant documents relating to 0.05 cents in Old Survey No.84 Perumabakkam, Thiruvallur District.

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2. Claiming that, the said land is a part of the larger extent of 0.98 cents in Nanjai Old Survey No.84, separate patta was not given to the petitioner. The petitioner had purchased the property through sale deed dated 3.5.2021 and in the patta both the name of the petitioner herein and the name of the fifth respondent was given as joint patta holders in patta No.147. Thereafter, differences arose between the petitioner and the fifth respondent necessitating the petitioner to file O.S.No.140 of 2008 before the District Munsif, Thiruvallur. The suit had already been decreed for demarcating of the said property and issuing separate patta. Though the suit had been decreed, the fifth respondent appears to have given a complaint to the second respondent claiming that the petitioner was trying to illegally grab his land and pursuant to such a complaint, a notice had been issued for appearance of the petitioner on 22.6.2021. Questioning that notice, the present writ petition has been filed.

3. My learned predecessor, having examined the facts, granted interim order of interim stay. The notice issued to the fifth respondent had been returned as refused to receive such notice. The Affidavit of Service in this regard forms part of the court records.

4. The court need not take any further steps to invite a party to participate in the proceedings when he refused to participate.

5. Heard the learned counsel for the petitioner and Mr.Yogesh Kannadasan, learned Government Advocate.

6. The suit in O.S.No.140 of 2008 had been decreed by District Munsif Court, Tiruvallur and therefore, the the fifth respondent, being a party to the suit, is bound by the decree. It is also clear that the officials in the writ petition are also party to the suit and therefore, they are also bound by the terms of the decree and unless it is set aside or modified or revisited by the higher appellate authority, the decree stands.

7. The respondents, particularly, the Revenue Divisional Official and the Tahsildar should focus on executing the decree but, should not enquire into the matter as if the land is tried to be grabbed by the petitioner for which, a complaint has been given by the fifth respondent subsequent to the decree of the suit in favour of the petitioner.

8. I find good reason for grant of interim stay by my



learned predecessor. The enquiry notice itself is liable to be set aside and it is, accordingly, set aside. The writ petition is allowed. No order as to costs. The connected Miscellaneous Petition is closed.

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Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

ssk.

To

1. The Collector,
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Tiruvallur 602 001.
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Tiruvallur Collectorate Office,
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3. The Revenue Divisional Officer,
Tiruvallur Collectorate Office,
Tiruvallur 602 001.
4. The Tahsildar,
Tiruvallur Taluk,
Tiruvallur District.

+1cc to Mr.K.Balaji, Advocate, S.R.No.38879
+1cc to the Government Pleader, S.R.No.39085

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PMK(CO)
CT/01/09/2021