



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.03.2021

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

Writ Petition(MD)No.6816 of 2020

and

WMP(MD)No.6216 of 2020

WEB COPY

PAKT Educational Trust,
Rep. by its Trustee PR.Sathiyamoorthy
No.10, Maris Avenue,
Collector Office Road, Trichy-01.

... Petitioner

vs.

- 1)The District Collector,
Tiruchirapalli District Collectorate Buildings,
Tiruchirapalli.
- 2)The Tahsildar,
Trichy West Taluk Office,
Promenade Road, Tiruchirapalli-1.
- 3)The District Revenue Officer,
Collectorate Buildings,
Tiruchirapalli.
- 4)The Commissioner of Police,
Tiruchirapalli District,
Subramaniapuram,
Tiruchirapalli-620 020.
- 5)The Assistant Commissioner of Police,
Land Grabbing Department,
Tiruchirapalli.
- 6)Muthuselvi, The Head Surveyor,
Trichy West Taluk Office,
Promenade Road, Tiruchirapalli-1.
- 7)Rajkumar,
The Survey Inspector, Survey Department,
Collectorate Buildings,
Tiruchirapalli-1.
- 8)U.Sivakumar

... Respondents

Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, forbearing the respondents from interfering into the civil dispute between the petitioner and 8th respondent herein which is pending in O.S.No.4 of 2018 on the file of Mahila Court, Tiruchirappalli, by aiding the 8th respondent and his men to trespass into the property in dispute, by measuring and erecting stones in the property with complete disregard to the pendency of the suit before the competent civil court.

For Petitioner : Mr.Isaac Mohanlal, Senior Counsel
for Mr.D.Stanislaus

For R1 to R5 : No appearance

For R6 & R7 : No appearance

For R8 : Mr.H.Arumugam



O R D E R

The prayer in this writ petition is for issuance of a Writ of Mandamus, forbearing the respondents from interfering into the civil dispute between the petitioner and 8th respondent herein which is pending in O.S.No.4 of 2018 on the file of the Mahila Court, Tiruchirappalli, by aiding the 8th respondent and his men to trespass into the property in dispute, by measuring and erecting stones in the property with complete disregard to the pendency of the suit before the competent civil court.

2.The learned counsel for the petitioner would state that the properties in Re.Survey Nos.8/1, No.8/2 and Survey No.8/4 of K.Abhishekapuram Village, Trichirappalli Taluk, Trichirappalli District and many other properties which are not in dispute, were the joint family properties consisting of Natesan, Alagan and Chinnaian who are all sons of one Kathirvel Moopan and their respective wives and children. The said properties were purchased in the names of joint family members from and out of joint family funds. According to the petitioner, as there were difficulties in enjoying the family properties jointly, the abovesaid persons entered into a family arrangement, by which, shares were allotted to the members as per their respective enjoyment of lands. He would further state that the legal heirs of Natesan, Alagan and brother of Natesan and Alagan viz., Chinnaian, Chinnaian's children viz., Raj and Kulumayee reduced the said family arrangement into a deed of partition dated 25.05.1998 for the record purpose in the presence of mediators. Even some of the legal heirs who were given share in the properties under the said partition deed, alienated the same to third parties including the petitioner herein. According to the petitioner, the properties in dispute were the shares allotted to the said Natesan's branch and after his demise, all the 5 legal heirs each became entitled to equal shares in the properties. The petitioner would state that by his individual capacity and Trustee of PAKT Educational Trust and one M.Venkatachalam through various sale deeds and conveyances, got entitled to 4/5th share in the properties comprised in S.Nos.8/1, 8/2 and 8/4 of K.Abhishekapuram Village.

3.The learned counsel for the petitioner would state that the petitioner is a bonafide purchaser of the above properties for valuable consideration and on the date of purchase, the properties were free from all encumbrances and the revenue records were also mutated by including the name of the petitioner in respect of the said properties. Subsequently, the petitioner came to know about the fraudulent sale made by one Gandhi in respect of the above properties in the year 2006 to third parties and further alienations made in favour of one Sivakumar, 8th respondent herein. The petitioner also came to know about the cancellation of patta issued in favour of his vendor and false representations made by the said Sivakumar to the concerned authorities to cancel the name of the petitioner from the joint patta. The said cancellation was also set



aside by the Division Bench of this Court in W.A(MD)No.322/2014 dated 23.03.2017 and the matter was remanded for fresh consideration. Therefore, feeling that it is no longer advisable to keep the said properties in the joint enjoyment, the petitioner as trustee of PAKT Educational Trust along with S.Geetanjali and Venkatachalam, filed a suit in O.S.No.4/2018 on the file of Mahila Court, Tiruchirapalli, for partition of the properties into 5 equal shares and to allot 4/5 shares to them and alternatively for demarcation of the properties and for permanent injunction against the defendants therein. According to the petitioner, pending suit, the Revenue Divisional Officer, Trichirappalli, also conducted an enquiry as directed by this Court and closed the said proceedings stating that the title dispute between the parties can only be decided by the competent civil court.

4.The learned counsel for the petitioner would state that the 8th respondent who claimed to have purchased the properties in S.Nos.8/1 and 8/2, in the abovesaid address, is an influential person and therefore, with the help of the police, they were trying to grab the petitioner's properties and therefore, Crl.OP(MD) No.3717/2020 came to be filed by the petitioner for not to harass, in which, this court issued suitable directions to the police. According to the petitioner, on the instigation of the 8th respondent, on 08.06.2020, around 03.30 p.m., few men of the 8th respondent along with policemen headed by the 5th respondent/Assistant Commissioner of Police came to the disputed property and though the petitioner had stated about the pendency of the civil suit, the 8th respondent's men with the support of the police and revenue authorities had threatened the staff working in the petitioner's Trust with dire consequences and they have also demolished the compound wall and therefore a representation was sent by the petitioner to the official respondents in this regard to take necessary action, but no action was taken. Hence, the petitioner has come forward with the present writ petition for the relief stated supra.

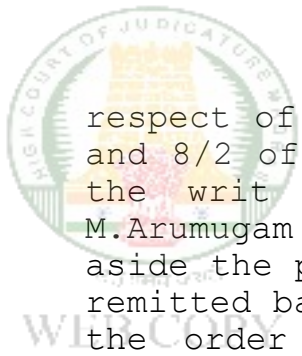
5.The 8th respondent has filed his counter, where he has stated that the writ petition is not maintainable and would pray for dismissal stating that there are suppression of material facts and the writ petitioner has stated as if the petitioner's Trust has purchased the undivided 4/5th share in the properties on the basis of a deed of partition dated 25.05.1998. According to the 8th respondent, the petitioner is not the purchaser of the property, but got settlement from one Arumugam who is no way connected with the petitioner's Trust and the petitioner suppressed the fact that the said partition is unregistered one. The vendor of the said Arumugam namely, Kalarani had already sold the property along with her sister by executing a registered Power of Attorney Deed dated 24.03.2006 in favour of one Prakash and who in turn sold it to one Gandhi, who is the own brother of Kalarani. But the said Kalarani fraudulently executed a deed dated 12.04.2007 in favour of the said Arumugam



and in turn, Arumugam has settled the property in favour of the petitioner's Trust through a settlement deed dated 22.12.2008.

6.He would further state that though the petitioner has got settlement deed from the said Kalarani, he did not come forward to claim any right. In fact, W.P(MD)No.1439/2013 was filed by the settlor namely, Arumugam after the execution of the settlement deed in the year 2008. The writ petition was also dismissed, but W.A(MD) No.322/2014 filed thereagainst came to be disposed of with a direction to conduct enquiry afresh on the premise that no opportunity was given to the said Arumugam before passing the order. According to him, the order was obtained by playing fraud and abuse of process of law and therefore the suit in O.S.No.260/2018 came to be filed in the year 2018. The 8th respondent has also stated many other averments alleging fraud and he would state that as per the Crl.O.P(MD)No.3717/2020 referred in paragraph 8 of the petitioner's affidavit, no notice was issued to the 8th respondent and in fact, the order passed therein itself is very clear wherein, this Court directed the police to follow the dictum of the Hon'ble Supreme Court in Lalitha Kumari's case by issuing notice to the 8th respondent and therefore, would state that the writ petition is not maintainable and the same is liable to be dismissed.

7.The petitioner has filed reply to the counter affidavit filed by the 8th respondent where they have stated about the origin of the family partition deed dated 25.05.1998 by which, the properties were partitioned vide family arrangement and the entire reply affidavit states as to the transaction which had been taken place between the family members. He would further state that from the reading of the counter filed by the 8th respondent, it could be seen that the transactions are purely civil in nature and it has to be only decided by a civil forum and that is the reason as to why even the petitioner's Trust has filed a suit for partition in O.S.No.4/2018 before the Court of District Judge (Mahila), Trichy, and the same is still pending. The 8th respondent also filed a suit in O.S.No.260/2018 before the IInd Additional District Munsif, Tiruchirapalli, for permanent injunction restraining the defendants 1 and 2 therein from in any way interfering with the plaintiff's peaceful possession and enjoyment of the suit property, in which, the 2nd defendant who is the present petitioner, has filed written statement on 09.12.2018. In fact, it is stated that on the application of the 8th respondent seeking issuance of separate patta in respect of the properties in Survey No.8/1 and 8/2, the Revenue Divisional Officer, Trichy, issued proceedings dated 25.04.2013 removing the names of one Arumugam and Selvi in respect of 19.5 cents in Survey No.8/1 and 20 cents in Survey No.8/2 and issued a separate patta in the name of the 8th respondent. As against the same, the said M.Arumugam filed W.P(MD)No.14397/2013 to quash the proceedings of the Revenue Divisional Officer, Trichy, dated 25.04.2013 and consequently to direct the respondents 1 and 2 to interfere with his title, possession and enjoyment in



respect of his land measuring 19.5 cents comprised in Survey No.8/1 and 8/2 of Abishekapapuram Village, Trichy and this Court dismissed the writ petition vide order dated 10.01.2014, against which, M.Arumugam filed W.A(MD)No.322/2014 which was allowed by setting aside the proceedings of the Revenue Divisional Officer, Trichy, and remitted back the matter to the RDO for fresh consideration. As per the order of this Court, the Sub Collector by considering the pendency of the suits in O.S.Nos.4 and 260 of 2018 directed the parties to resolve their civil dispute in patta before the appropriate civil court vide proceedings dated 02.05.2018. The 8th respondent filed W.P(MD)No.15123/2018 challenging the proceedings of the RDO dated 02.05.2018 and that is pending before this Court without any interim orders.

8.Heard the learned counsel for the petitioner as well as the learned counsel for the 8th respondent.

9.Perusal of the affidavit filed by the petitioner, counter affidavit of the 8th respondent and the rejoinder affidavit filed thereto, shows that various suits are pending between the parties and there are allegations and counter allegations raised by the parties and all that can be gone into only by the civil forum and that is the reason why the Revenue Divisional Officer based on the orders passed by this Court in W.A(MD)No.322/2014, has directed the parties to approach the civil forum and when the matters are pending before the civil forum, without narrating the entire happenings, it is not appropriate on the part of the official respondents interfering into the civil dispute. The learned Judge while passing the order in Crl.O.P(MD)No.3717 of 2020 was not apprised of the order passed in the writ appeal and the case is pending before the civil form. The Revenue Divisional Officer has directed the parties to resolve the issue before the civil forum after enquiry based on the remand in the writ appeal. Against the order of the Revenue Divisional Officer, the writ petition is pending before this Court in W.P(MD)No.15123/2018.

10.Considering the entire facts and circumstances of the case, it is only the civil forum which can decide the issue in hand and therefore, the respondents/police are directed not to interfere into the civil dispute.

11.With the above directions, this writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (records)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



To

1)The District Collector,
Tiruchirapalli District Collectorate Buildings,
Tiruchirapalli.

2)The Tahsildar,
Trichy West Taluk Office,
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3)The District Revenue Officer,
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4)The Commissioner of Police,
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5)The Assistant Commissioner of Police,
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Tiruchirapalli.

6)Muthuselvi, The Head Surveyor,
Trichy West Taluk Office,
Promenade Road, Tiruchirapalli-1.

7)Rajkumar,
The Survey Inspector, Survey Department,
Collectorate Buildings,
Tiruchirapalli-1.

8)The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.H.ARUMUGAM, Advocate (SR-13708[F] dated 25/03/2021)

W.P. (MD)No.6816 of 2020
DATED : 24.03.2021

SGS (CO)
KB(08.04.2021) 6P 10C