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W.P.No.22014 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.10.2022

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.22014 of 2015 and
W.M.P.Nos.1 and 2 of 2015

Kumaravel

... Petitioner

vs.

1. The District Collector,
Thiruppur.
2. The Revenue Divisional Officer,
Udumalpet, Thiruppur District.
3. The Thasildar,
Madathukulam,
Thiruppur District.
4. A.Magudeeswaransami

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records with respect to the impugned proceedings of the third respondent herein dated 17.07.2015 in Na.Ka.No.3034/2015/A3 and quash the same.



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For Petitioner : Mr.R.Nalliyappan

For R1 to R3 : Mr.U.Bharanidharan
Additional Government Pleader

ORDER

This Writ Petition has been filed seeking issuance of a Writ of Certiorari to quash the impugned proceedings of the third respondent dated 17.07.2015 in Na.Ka.No.3034/2015/A3.

2. It is the case of the petitioner that he is in continuous and peaceful possession of the property in S.F.No.307 to an extent of 10.97 acres situated in Sankaramanallur North, Madathukulam Taluk, Thiruppur District and all the Revenue Records were mutated in favour of the petitioner. Since the fourth respondent gave hindrance to the petitioner's possession, the petitioner filed a suit for declaration and permanent injunction in O.S.No.215 of 2015 on the file of District Munsif Court, Udumalpet and subsequently the same was transferred to the Judicial Magistrate Court, Madathukulam in O.S.No.255 of 2019. The fourth respondent who is also impleaded as a party



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in the above said suit, suppressing all the above facts, made a representation before the respondents 1 to 3 to survey the lands in S.F.Nos.295, 300, 301, 302, 304 and 307 of the aforesaid Village, wherein the petitioner's property is also included. Thereafter, the fourth respondent filed a writ petition in W.P.No.15840 of 2015 before this Court and the same was disposed of vide order dated 05.06.2015, pursuant to which, the third respondent passed the impugned order dated 17.07.2015, permitting the fourth respondent to use the pathway in respect of petitioner's property till the disposal of the above said suit. Challenging the said order dated 17.07.2015, the present writ petition has been filed seeking the aforesaid relief.

3. Though very many grounds have been raised in this Writ Petition, learned counsel appearing on behalf of the petitioner submits that *de hors* the pendency of the civil suit pending on the file of District Munsif Court, Udumalpet in O.S.No.215 of 2015, the impugned order passed by the third respondent declaring the rights of the fourth respondent with regard to the pathway as cart track till the disposal of the above said suit cannot be sustained. Hence, impugned order dated 17.07.2015 passed by the third



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respondent is liable to be quashed.

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4. Learned Additional Government Pleader appearing for the respondents 1 to 3 submits that since the petitioner obtained status quo vide order dated 22.07.2015 as against the fourth respondent in the present writ petition in W.P.No.22014 of 2015 before this Court, the impugned order passed by the third respondent dated 17.07.2015 has not been implemented. Hence, the impugned order passed by the third respondent needs no interference of this Court and this petition deserves to be dismissed. Further liberty may be granted to the petitioner as well as the fourth respondent to file fresh application before the third respondent seeking their respective reliefs after the disposal of the above said suit in O.S.No.255 of 2019 on the file of Judicial Magistrate Court, Madathukulam.

5. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

6. In view of the stand taken by the learned Additional Government



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Pleader appearing for the respondents 1 to 3 to the effect that, the impugned order passed by the third respondent has not been implemented, since the petitioner obtained interim status-quo, the impugned order itself having not been implemented, the question of filing the present writ petition seeking quashment of the impugned order does not arise. However, in view of the fact that the respondents themselves have not implemented the impugned order pursuant to the order of status quo, the impugned order has become academic and, accordingly the impugned order is set aside.

7. However, this Court grants liberty to the petitioner as well as the fourth respondent to make a fresh application before the third respondent after the disposal of the above said suit in O.S.No.255 of 2019 pending on the file of Judicial Magistrate Court, Madathukulam seeking their respective reliefs. The Judicial Magistrate Court, Madathukulam is directed to decide the issue between the parties without being influenced by any of the observation made in the present writ petition.



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8. With the above observation and directions, this Writ Petition is allowed. No costs. Consequently connected miscellaneous petitions are closed.

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RAP

Index : Yes/No

Speaking order : Yes/No

To:

1. The District Collector,
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2. The Revenue Divisional Officer,
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3. The Thasildar,
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Copy to:

Judicial Magistrate, Madathukulam



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M.DHANDAPANI, J.

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