



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.03.2022

CORAM :

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. No.5011 of 2022
and
W.M.P.Nos.5120 & 5121 of 2022

Raji

... Petitioner

Vs.

1. The Revenue Divisional Officer,
Harur Revenue Division,
Harur, Dharmapuri District.
2. The Tahsildar,
Papereddipatti Taluk,
Dharmapuri District - 636 705.
3. The Inspector of Police,
Papereddipatti Police Station,
Dharmapuri District.

4.Raman

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, to call for the records relating to the impugned order dated 18.02.2022 made in Na.Ka.No.109/2022/P4 of the 2nd respondent and to quash the same.

For Petitioner : Mr.C.Prabakaran

For R1 to R3 : Mr.T.Chezhiyan
Additional Government Pleader

O R D E R

This Writ Petition has been filed seeking for issuance of a Writ of Certiorari to call for the records relating to the impugned order dated 18.02.2022 made in Na.Ka.No.109/2022/P4 on the file of the second respondent and to quash the same.



2. The case of the petitioner is that the petitioner claims to be the owner of the property comprised in Survey No.267/8A and he was in possession and enjoyment of the same. In the very same Survey Number, there is a Southern boundary of the said land which belongs to the predecessors of the fourth respondent and it was under the possession and enjoyment of the petitioner's ancestors. However, the fourth respondent is interfering with the peaceful possession of the petitioner. Therefore, the petitioner has filed a suit in O.S.No.184 of 2020 on the file of the District Munsif Court, Pappireddipatti, seeking declaration of title and permanent injunction against the fourth respondent and his family members and the same is pending. Further, the fourth respondent herein filed written statement as early on 06.08.2021 stating that the subject property was his family property and he was in possession and enjoyment of the same and the land in Survey Nos.267/7 and 267/8A have been surveyed and boundaries were fixed properly based on his application and therefore prayed for dismissal of the Suit. Further the fourth respondent has also filed I.A.No.372 of 2021 in O.S.No.184 of 2020, seeking appointment of an Advocate Commissioner to measure the above said properties. While so, the fourth respondent, suppressing all these facts, filed a writ petition before this Court in W.P.No.23166 of 2021 against the Revenue Authorities, seeking for issuance of a Writ of Mandamus, directing the respondents 1 to 4 therein to consider his representations dated 18.09.2021 and 28.09.2021 and the said Writ Petition was disposed of by this Court, vide order dated 28.10.2021, and the respondent therein was directed to consider the petitioner's representations and dispose of the same within a period of 12 weeks. Further, the second respondent, on the instigation of the fourth respondent, called upon the petitioner for enquiry and after adjudication, he passed the present impugned communication dated 18.02.2022 in Na.Ka.No.109/ 2022/ P4. Thereafter, the Revenue Officials have taken effective steps to measure the property with appropriate police protection to measure the land on 03.03.2022, based on the order dated 28.10.2021 passed by this Court in W.P.No.23166 of 2021. Objecting the impugned communication, the present writ petition is filed.

3. The learned counsel for the petitioner submits that the fourth respondent, suppressed the fact that the suit is pending before the competent Court in respect of the very same property, and preferring an application for measuring the property, is not sustainable. Further, he submitted that, till the disposal of the suit, the Revenue Officials have no power to measure the property. Hence, he prays for appropriate orders.

4. The learned Additional Government Pleader appearing for the respondents 1 to 3 submitted that the fourth respondent



has made an application for measuring the property, mere measuring of the property will not deprive any title to the property. Further, the fourth respondent earlier has filed Writ Petition for a Mandamus to consider his application, in which, this Court, vide order dated 28.10.2021 in W.P.No.23166 of 2021, issued direction to the respondents therein to measure the property after providing an opportunity to the fourth respondent therein as well as the petitioner therein. Hence, the petitioner is not an aggrieved person and accordingly, he prays for dismissal of the Writ Petition.

5. Facts in the present case are not in dispute. The grievance of the petitioner is that, the fourth respondent has made an application for measuring the suit properties, suppressing the fact that a declaration Suit is pending in respect of the very same property. Mere measurement of the property will not confer any title in favour of the fourth respondent and infact, it would help the trial Court to arrive at an appropriate conclusion. Hence, filing the present Writ Petition challenging the initiation of proceedings by the Revenue Officials for measuring the property, is not sustainable. Hence, the prayer sought for in this Writ Petition cannot be granted.

6. Accordingly, this Writ Petition is dismissed. No Costs. However, the second respondent is directed to measure the disputed property in the presence of the petitioner and pass appropriate orders on merits as directed by this Court in W.P.No.23166 of 2021 on 28.10.2021.

Sd/-

Assistant Registrar(CS IV)

True Copy//

Sub Assistant Registrar

jd/skt

To

1. The Revenue Divisional Officer,
Harur Revenue Division,
Harur, Dharmapuri District.
2. The Tahsildar,
Papareddipatti Taluk,
Dharmapuri District - 636 705.



3. The Inspector of Police,
Papereddipatti Police Station,
Dharmapuri District.

+1cc to Mr.C.Prabakaran, Advocate, S.R.No.15258

+1cc to the Government Pleader, S.R.No.15891

W.P. No.5011 of 2022

and

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GPL[co]

NSK 05/05/2022