



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.03.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.NO.33268 OF 2012

AND

M.P.NO.1 OF 2012

1. V.Vendhan

2. V.Bhuvaneswari @ V.Selvi

... Petitioners

Vs.

1. The District Collector,
Chennai District,
Chennai.

2. The District Revenue Officer,
Office of the D.R.O.,
Chennai 600 001.

3. The Tahsildar,
Mylapore-Triplicane Taluk,
Chennai.

4. The Commissioner,
Corporation of Chennai,
Chennai 600 003.

5. R.Venkatesan

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus Calling for the records relating to order passed by the second respondent herein vide his proceedings RC No.J/ 42868/09 dated 12.4.2012 and quash the same and direct the respondents to maintain the Status Quo that was prevailing at time of filing of the suits till the disposal of the suit by the City Civil Courts.



WEB COPY

For Petitioner : Mr.V.Needhidurai
For RR1 to RR4 : Mr.A.Anandan
Government Advocate
For RR5 : Mr.H.Adaikala Arockiaraj

O R D E R

The petitioner has filed this petition for issuance of writ of Certiorarified Mandamus Calling for the records relating to order passed by the second respondent dated 12.4.2012 and quash the same and direct the respondents to maintain Status Quo that was prevailing at time of filing of the suits till the disposal of the suit by the City Civil Courts.

2. The case of the petitioner is that one Radhakrishnan, Jagannathan and Ramachandran, entrusted the possession of the house to the petitioner bearing No.84, (New No.12), Ramalinga Waswarar Kovil Street, Vanniya Teynampet, Chennai 600 018, in pursuance of the oral agreement of sale entered into between the petitioner and the above said three persons. Ever since 1991, the petitioner is in possession and enjoyment of the house. The petitioner on 24.10.1993, calling upon the above said three persons to execute the Sale Deed after receiving the balance sale consideration but they did not do so and hence, the petitioner filed a Suit in O.S.No.8457 of 1993 for a permanent injunction and the said Suit was dismissed by the City Civil Court. Thereafter, the petitioner executed settlement deed in the capacity of owner of the property in favour of his wife. All of a sudden, one R.Venkatesan, son of Radhakrishnan, filed a Suit in O.S.No.4757 of 2010, on the file of the II Assistant City Civil Court, Chennai, for a declaration that the Settlement Deed executed by the petitioner in favour of his wife as null and void. Subsequently, the petitioner and his wife also filed O.S.No.12942 of 2010 before the XIV Assistant City Civil Court, Chennai for a declaration that the above said house belongs to them and for a consequential permanent injunction against R.Venkatesan and all the civil cases are pending between the parties. While the suits are pending, the said Venkatesan, filed a petition before the District Collector for cancellation of the patta. The DRO, on the basis of the report from the officials, passed an order on 12.04.2012, cancelling the patta standing in the name of his wife. Challenging the same, the present Writ Petition is filed.

3. The learned counsel appearing for the petitioner on instructions submitted that the Suit in O.S.No.12942 of 2010 for



declaration and adverse possession was dismissed on 05.01.2022, on the file of the II Assistant City Civil Court, Chennai. As against which, the petitioner has taken effective steps to prefer appeal before the Lower Appellate Court. Therefore, this Court without expressing any opinion on merits, may grant liberty to workout the remedy before the Lower Appellate Court. If the petitioner succeeds before the Lower Appellate Court, the petitioner may be granted permission to file a fresh application before the revenue officials for issuance of patta.

4. The learned counsel appearing for the 5th respondent submitted that the petitioner is the tenant in the 5th respondent property. Thereafter, he grabbed the property from the 5th respondent with collusion of the Tahsildar, Mambalam and further an FIR in that regard was also registered against the petitioner under the land grabbing cases. While so, the petitioner has filed a Suit for declaration and the same was dismissed before the competent Civil Court and therefore, the petitioner is not entitled for any relief before this Court and prays for dismissal of this petition.

5. This Court has carefully considered the rival submissions and also perused the materials available on record.

6. Considering the limited prayer sought for by the petitioner and in view of the fact that the petitioner himself fairly conceded that the Suit filed by the petitioner is dismissed by the competent Civil Court and he is taking effective steps to file appeal before the Lower Appellate Court, this Court grants liberty to the petitioner to canvass all the points before the Lower Appellate Court and further it is clear that the impugned order and observation made by the revenue official is subject to the result of the appeal preferred by the petitioner and the petitioner is granted liberty to workout the appropriate remedy before the revenue officials, after disposal of the appeal.

7. For the reasons aforesaid, this Writ Petition is dismissed. No costs. Consequently connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

sk



To

1. The District Collector,
Chennai District,
Chennai.

2. The District Revenue Officer,
Office of the D.R.O.,
Chennai 600 001.

3. The Tahsildar,
Mylapore-Triplicane Taluk,
Chennai.

4. The Commissioner,
Corporation of Chennai,
Chennai 600 003.

+2ccs to Mr.H.Adaikala Arockiaraj, Advocate, S.R.No.19094

+1cc to the Special Government Pleader, S.R.No.19605

W.P.No.33268 of 2012

SKM(CO)
RLP(08/04/2022)