



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.05.2022

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THE HONOURABLE MR. JUSTICE R.MAHADEVAN

W.P. NO. 12024 OF 2022

AND

WMP NO.11442 OF 2022

Anna Nagar Kudisai Vazhvor Nala Urimai Sangam
Rep. by its President R.Xavier,
Having Office at No.1, Periyar Salai,
Hasthinapuram, Chennai - 600 044

.. Petitioner

Versus

1. The Commissioner,
Pallavaram Municipality,
3rd Main Road, Pallavaram New Colony,
Chromepet, Chennai-600 044.
2. The Special Tahsildar,
Pallavaram Municipality,
3rd Main Road, Pallavaram New Colony,
Chromepet, Chennai-600 044.
3. S.Vijaya

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the Respondents 1 & 2 to allow the Petitioner Association to participate in the enquiry to be conducted as per the order made in W.P.No.10647/2019 dated 17.03.2022 on the file of this Hon'ble Court by presenting necessary documents before the Respondents 1 & 2.

For Petitioner : Mr.R.Balaguru Swamy

For Respondents : Mr.S.Prabakaran
Government Advocate for R1 & R2



ORDER

The prayer made in this writ petition is to issue a Writ of Mandamus directing the Respondents 1 & 2 to allow the Petitioner Association to participate in the enquiry to be conducted as per the order dated 17.03.2022 passed by this Court in W.P.No.10647/2019 by presenting necessary documents before the Respondents 1 & 2.

2. According to the petitioner, Anna Nagar Kudisai Vazhvor Nala Urimai Sangam was formed by 300 residents of Anna Nagar, Hasthinapuram Village, Chennai-44 in the year 1969, who are occupants of the lands measuring an extent of 18 acres comprised in Survey No.12/4, 21/1, 21/2 and 21/3. This land originally belonged to one Ramachandra Iyer and the third respondent herein claims herself to be the adopted daughter of the said Ramachandra Iyer. The aforesaid lands were mortgaged by Mr. Ramachandra Iyer with Punjab National Bank during the year 1965, but committed default in repayment. Therefore, the Bank has filed O.S. No. 40 of 1965 before the Sub Court, Chengalpet against the said Ramachandra Iyer and the said suit was decreed exparte against the legal heirs of Ramachandra Iyer viz., Mrs.Ananthalakshmi Ammal, his wife and others. To execute the decree, the Bank has filed EP No. 46 of 1989 before the Sub Court, Poonamallee in which the petitioner association was impleaded as third respondent. During the execution proceedings, a settlement was arrived and based on the compromise, the legal heir of Ramachandra Iyer viz., Mrs.Ananthalakshmi Ammal executed a registered Power of Attorney in favour of the petitioner Association represented by its then President. Based on the Power of Attorney deed, 108 sale deeds were executed in favour of the third parties, who are members of the petitioner association and they occupied their respective lands. The association also earmarked and occupied a land measuring 2852 sq.ft in Agananooru Street, Hathinapuram Village and constructed a building for the purpose of running the Association. The Association also gifted some portion of the lands to the 1st respondent for the purpose of constructing social welfare hall and water tank. In any event, since 1989, the property measuring 2852 sq.ft. has been in exclusive possession and enjoyment of the association.

3. While so, the 3rd respondent attempted to grab the property by creating forged documents and therefore criminal complaints were filed against her and they are pending before the learned Judicial Magistrate, Tambaram. Notwithstanding the same, the third respondent filed W.P. No. 10647 of 2019 before this court seeking a direction to 1st respondent to handover



physical possession of the property to her which is in occupation of the petitioner association. However, the third respondent did not implead the petitioner Association as a party to WP No.10647 of 2019. The writ petition was filed by the third respondent by suppressing material facts. The said writ petition was disposed of by this Court, directing the 1st respondent to consider and pass orders on her claim, after considering the documents submitted by her.

4. It is the grievance of the petitioner association that they are in possession and enjoyment of the property for three decades and the 3rd respondent with an intention to grab the property, approached this Court without impleading the petitioner association and obtained an order from this Court. It is its further grievance that the first respondent, in order to comply with the direction issued by this Court, is likely to conduct an enquiry without hearing the petitioner association and in such an event, the petitioner association will be put to irreparable loss and hardship, hence the writ petition.

5. The learned counsel appearing for the petitioner submitted that the 3rd respondent, without filing civil suit for recovery of possession, has filed writ petition in WP. No.10647 of 2019, that too, without impleading the petitioner association as a party. Based on the order dated 17.03.2022, in WP No. 10647 of 2019 filed by the third respondent, the first respondent is likely to conduct an enquiry in respect of the property which is in occupation of the petitioner. The learned counsel for the petitioner therefore submitted that the first respondent may be directed to hear the petitioner association, so as to enable them to place all the facts supported by documents relating to the title of the property, while conducting an enquiry.

6. On the above contentions of the learned counsel for the petitioner, this Court heard the learned Government Advocate for the respondents 1 and 2 and perused the materials available on record.

7. Considering the above facts and circumstances of the case and having regard to the submissions made on either side, this court directs the first respondent to hear the petitioner association, while conducting enquiry as per the order dated 17.03.2022 passed by this Court in WP.No.10647 of 2019, filed by the third respondent, with regard to title as well as the possession of the property in question, complete the same on



merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of this order.

8. Accordingly, the writ petition stands disposed of. No costs. Consequently, connected Miscellaneous petition is closed.

Sd/-
Vacation Officer

//True Copy//

Sub Assistant Registrar

kmi/rsh

To

1. The Commissioner,
Pallavaram Municipality,
3rd Main Road, Pallavaram New Colony,
Chromepet, Chennai-600 044.
2. The Special Tahsildar,
Pallavaram Municipality,
3rd Main Road, Pallavaram New Colony,
Chromepet, Chennai-600 044.

+1cc to Mr.R.Balaguru Swamy, Advocate, S.R.No.31151
+1cc to the Government Pleader, S.R.No.31310

W.P.No.12024 of 2022

JPL(CO)
PM/19/05/2022