



W.P.No.32323 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.07.2022

CORAM:

THE HON'BLE **MR.JUSTICE M.DHANDAPANI**

W.P.No.32323 of 2014

and

M.P.No.1 of 2014

1. N.N.Chandrasekeran
2. C.Maragathavalli
3. N.C.Sureshkumar

. . . Petitioners

Vs.

1. The Revenue Divisional Officer,
Tambaram Revenue Division, Tambaram
Kancheepuram District.

2. S.M.Thakkar

. . . Respondents

PRAYER:Writ Petition filed under Article 226 of the Constitution of India, to issue an order, writ, direction or any other appropriate order in the nature of a writ of Certiorari calling for the records of the first respondent in his proceedings Na.Ka.Na.Ka.2357/2014Aa dated 18.11.2014, quash the same.



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For Petitioner : M/s. M.L.Ramesh
For Respondents : Mr.G.Krishna Raja,
Additional Government Pleader for R1
: Mr.A.E.Ravichandran for R2

ORDER

The present petition has been filed seeking to quash the impugned order dated 18.11.2014 passed by the 1st respondent.

2. It is the case of the petitioners that they are the joint owners of the property situated in old survey No.122/1 part, Patta No.5593, New Survey No.122/31 E situated at Moudha Ibrahim Street, Pammal Village, presently Alandur Taluk, Kancheepuram District to an extent of 4818 Square feet and the petitioners are in absolute possession of the same having put up a superstructure in the said property. The petitioners have purchased the said property from their vendor namely Adesh Suri who purchased the said property from one N.Maqbool Jan through his Power of attorney agent namely K.Venkatesan vide the registered sale deed dated 28.07.2008. While being so, the 2nd respondent had filed a suit in O.S.No.203 of 2008 on the file of the file of the District Munsif Court, Alandur, seeking the relief of



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permanent injunction as against the power of attorney agent who had sold the schedule property to the petitioners and the same is pending. The said property was trespassed into by the 2nd respondent, claiming the title over the property, which resulted in registration of the case in Crime number 1067 of 2014 dated 14.08.2014 under Section 45 of the Criminal Procedure Code. While being so, based on the report filed by the Inspector of Police alleging that there is a breach of peace in the locality due to the property dispute between the parties, the 1st respondent, without even conducting an enquiry, had passed the impugned order dated 18.11.2014 preventing the petitioners from entering into the subject property. Challenging the said order, the petitioner has come up with the present petition.

3. Learned counsel for the petitioners submits that during the pendency of the Suit in O.S.No.203 of 2018 pertaining to the title of the subject property, the 1st respondent has no authority to pass any order as against the petitioners, as the dispute with regard to the title of the property can only be decided by the competent civil court. Hence, the impugned order of the 1st respondent having come to be passed without considering



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the pendency of the suit, is liable to be set aside and this Writ Petition may be allowed.

4. On the above contentions, this Court, heard the learned Additional Government Pleader appearing for the 1st respondent and perused the materials available on record.

5. It is evident from the materials available on record that pending disposal of the suit in O.S.No.203 of 2018 on the file of the District Munsif Court, Alandur, the order impugned in this Writ Petition has come to be passed by the 1st respondent. During the pendency of the suit which was filed, with regard to the title of the property before the competent civil Court, it is not open for the respondents to pass any orders against either of the parties, as the title of the property can be decided only by the competent civil Court. In such of the matter, the order impugned in this Writ Petition is liable to be interfered with and the same is accordingly set aside. However, liberty is granted to the petitioners to work out their remedy in the manner known to law before the competent civil forum.



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WEB COPY 6. This Writ Petition is allowed in the above terms. No costs.

Consequently, the connected Miscellaneous Petition is closed.

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NHS

Index : Yes / No

Internet : Yes / No

To

The Revenue Divisional Officer,
Tambaram Revenue Division, Tambaram
Kancheepuram District.



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M.DHANDAPANI, J.

NHS

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