



W.P.No.32614 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.12.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.No.32614 of 2022 and
W.M.P.No.32028 of 2022

Palanisamy

... Petitioner

Vs

1.The Sub Registrar,
Nambiyur Sub Registrar Office,
Nambiyur Post,
Erode District.

2.S.Vivekanandan

3.R.Gopalakrishnan

... Respondents

Prayer : 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 enquiry report of the Sub Registrar, Nambiyur dated 18.11.2022 relating to the land to an extent of one acre in Survey No.343 of Nambiyur Village & Taluk, Erode District and quash the same.

For Petitioner : Mr.D.Veerasekaran

For Respondents : Mr.Yogesh Kannadasan
Special Government Pleader for R1



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: Mr.V.Anandhamurthy for R2

ORDER

WEB COPY The prayer sought for herein is for a Writ of Certiorari to call for the records relating to the enquiry report of the Sub Registrar, Nambiyur dated 18.11.2022 relating to the land to an extent of one acre in Survey No.343 of Nambiyur Village & Taluk, Erode District and quash the same.

2. In respect of a land at Survey No.343, Nambiyur Village and Taluk, Erode District to an extent of 1 acre, it seems that, there has been a protest petition given by the respondents 2 and 3 against the petitioner before the 1st respondent.

3. The said protest petition having been enquired by the 1st respondent, he has recorded an enquiry report dated 18.11.2022, where he has stated that the petitioner who is the owner of the property though had given documents in support of his contention that, he is the owner of the property nevertheless the 1st respondent registering authority directed the petitioner to go before the Civil Court and get a declaratory relief by filing the declaration suit.



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4. Therefore challenging the said enquiry report dated 18.11.2022, the petitioner has moved the present writ petition with the aforestated prayer.

5. Heard Mr.D.Veerasekaran, learned counsel appearing for the petitioner who would submit that, once a protest petition is given to the registering authority, he has to have a limited enquiry and dispose of it then and there and moreover the petitioner has presented documents substantiating the property belongs to the petitioner at this juncture. When that being so, after finding out that the petitioner is the owner of the property and to substantiate that he has produced the documents, despite that the 1st respondent directing the petitioner to go before the Civil Court to get a declaratory decree is not only unwarranted but also beyond the jurisdiction of the 1st respondent, therefore on this ground the impugned report has to be interfered with.

6. Heard Mr.V.Anandhamurthy, learned counsel appearing for the private respondents who on instruction would submit that, if at all ultimate



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decision has to be taken with regard to the property in question as to who would be the owner of the property, normally parties would be relegated to go before the Civil Court that is the limited direction has been given by the 1st respondent and in this regard if the petitioner is aggrieved, he can go before the Civil Court and file a suit and get a declaration, instead, he cannot challenge the said report itself as it is only a report of enquiry conducted by the 1st respondent on the protest petition given by the private respondents, therefore the learned counsel would contend that the impugned report cannot be assailed successfully by the petitioner.

7. Heard Mr.Yogesh Kannadasan, learned Special Government Pleader appearing for the 1st respondent who would submit that, insofar as the finding given by the 1st respondent dated 18.11.2022 is concerned, after he found that the petitioner is the owner of the property, to substantiate the same he has produced a document, such a relegation made by the 1st respondent to drive the petitioner to go before the Civil Court at this juncture may not be justifiable or warranted, therefore this Court can take note of these aspects and decide the case accordingly, he contended.



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8. I have considered the said submissions made by the learned counsel for the parties and have perused the materials placed before this Court.

9. I have perused the said impugned enquiry report dated 18.11.2022 where the following has been stated:

“மனுதாரருக்கு நீதிமன்றத்தை அணுகும்படியும், தவறு எனக் கருதும் ஆவணங்களை ரத்து செய்வதற்கு உரிய ஆதாரங்களும் மாவட்ட பதிவாளரிடம் முறையீடு செய்யும்படியும் அறிவுறுத்தப்பட்டது.

எதிர்மனுதாரர்கள் பூமி தங்களுக்கு உரியது என்பதற்கான ஆதாரங்களை சமர்ப்பித்தபோதும், நீதிமன்றத்தில் உரிய “declaration suit” தாக்கல் செய்து ஆணை பெற்று வருமாறு அறிவுறுத்தப்பட்டு விசாரணை முடிக்கப்பட்டது.”

10. In one aspect the 1st respondent has stated that, the petitioners before him who are the private respondents herein were directed to approach the District Registrar to cancel the document if they feel that those documents are liable to be canceled. On the other hand, he has stated that the opposite parties i.e. the petitioner herein though had submitted documents to substantiate that he is the owner of the property still he has



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to go before the Civil Court and to file a declaratory suit to get a declaratory decree with regard to the property in question.

11. If at all any protest petition has come, that can also be enquired by the registering authority within the provisions of the Registration Act and accordingly he can either accept the document for registration or refuse to accept the document for registration to that extent alone the jurisdiction is vested with the registering authority.

12. Beyond that during normal course without having any document if they come to the registering authority opposing the registration, this kind of protest petition normally would not be entertained. Having been entertained the same, the 1st respondent since has found that the petitioner is the owner of the property, for substantiating the same he has produced the documents, the 1st respondent ought not to have relegated the petitioner to go before the Civil Court to get a declaratory relief as that situation has not at all arisen at this stage. Therefore, this Court has no hesitation to hold that the finding given by the 1st respondent in the impugned enquiry report dated 18.11.2022 is not only unwarranted but also beyond the



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jurisdiction of the 1st respondent and on that ground it is liable to be interfered with. In the result, the impugned report of the 1st respondent is set aside and the Writ Petition is ordered accordingly. No costs. Consequently, connected miscellaneous petition is closed.

13. Allowing of this writ petition would not preclude the private respondents to workout their remedies to go before the Civil Court if still they feel that they can have a presentable case to get a declaratory decree.

20.12.2022

Index : Yes/No

Speaking Order : Yes/No

Sgl

To

The Sub Registrar,
Nambiyur Sub Registrar Office,
Nambiyur Post,
Erode District.



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R.SURESH KUMAR, J.

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