



Writ Petition No.3557 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.10.2022

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

Writ Petition No.3557 of 2017

and

W.M.P.Nos.3588 and 11060 of 2017 and W.M.P.No.40295 of 2018

P.Ramasamy

... Petitioner

VS.

1. The Tahsildar,
Ambattur Taluk,
Ambattur, Chennai – 600 053.

2. Taluk Sub Inspector cum Head Surveyor,
Office of Ambattur Tahsildar,
Ambattur, Chennai – 600 053.

3. Ponsingh

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus Certiorari calling for the records of the second respondent pertaining to FL No.13/2017 dated 30.01.2017 and quash the same as illegal, arbitrary and non est in law.



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For Petitioner : Mr.R.Ravikumar
For R1 and R2 : Mr.U.Bharanidharan
Additional Government Pleader
For R3 : Mr.C.Prabakaran

ORDER

This writ petition is filed seeking for issuance of a writ of certiorari to quash the proceedings of the second respondent pertaining to FL No.13/2017 dated 30.01.2017 .

2. It is the case of the petitioner that he was granted lease by the government to an extent of 675 sq.ft. of land situated in Padi Village and the adjacent lands comprised in S.Nos.320/2B and 320/2C admeasuring 7.5 cents were originally granted lease by the Government to one Chacko in the year 1988 for a period of three years for which the said Chacko has neither paid the rent nor renewed the lease and sold the portion of the Government land in favour of the third respondent. Further, said Chacko conveyed the lands owned by him in S.No.1177/1 situated in Korattur Village to the third respondent through fraudulent sale deed, which is situated adjacent to the



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petitioner's property and the Town Survey Patta was also issued in his favour. Subsequently, third respondent made a representation dated 19.01.2017 before the Revenue Authorities alleging that the petitioner has made an encroachment in respect of his property and sought for survey of lands, pursuant to which, the second respondent without conducting any enquiry had issued impugned notice dated 30.01.2017 for surveying of lands and production of title deeds. Challenging the same the present writ petition has been filed seeking the aforesaid relief.

3. Learned counsel appearing for the petitioner submitted that though this Court in the earlier round of litigation filed by one Chacko in W.P.No.9910 of 2009 dated 05.06.2012 challenging the lease granted by the State Government in favour of the petitioner and further alleged that the petitioner has encroached his lands in S.No.1177/1 situated in Korattur Village has categorically held that the title and boundary dispute between the parties should be adjudicated only before the competent civil Court. However, suppressing the same, the third respondent made frivolous representation dated 19.01.2017 before the official respondents as if the



petitioner has encroached the property in S.No.1177/1A and to survey the same is not sustainable.

4. Learned counsel appearing for respondents 1 and 2 submitted that since, the second respondent issued only a summon, the petitioner can very well canvass his grievances before the Revenue officials or before the competent Civil Court with regard to title. Instead of approaching the appropriate forum challenging the summons before this Court at the threshold is not maintainable. Accordingly, he prayed for dismissal of this Writ Petition.

5. Learned counsel appearing for the third respondent submitted that already survey was conducted and the encroachment was removed. Hence nothing survives in the present writ petition.

6. Heard learned counsel appearing on either side and perused the materials placed before this Court.



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7. It is an admitted fact that the third respondent made a representation before the official respondents seeking to survey his property, for which, impugned summon dated 30.01.2017 was issued by the second respondent, wherein the petitioner was called for enquiry on 13.02.2017. However, this Court, in catena of decisions has categorically held that a mere summon cannot be challenged at the initial stage unless it is issued by an authority who lacks jurisdiction, which is not the case on hand. Therefore, the prayer sought for by the petitioner cannot be granted.

8. Accordingly, this writ petition is dismissed with liberty to the petitioner and the third respondent to work out their remedy in the manner known to law. Consequently connected miscellaneous petitions are closed. There shall be no order as to costs.

19.10.2022

RAP

Index : Yes/No

Speaking order : Yes/No



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To:

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Ambattur, Chennai – 600 053.
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Office of Ambattur Tahsildar,
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M.DHANDAPANI, J.

RAP

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