



W.P.No.10057 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.11.2022

CORAM :
THE HONOURABLE MR. JUSTICE M.DHANDAPANI

Writ Petition No.10057 of 2017
and W.M.P.No.11053 of 2017

N.Subramanian

... Petitioner

Vs.

1.The Tahsildar,
Taluk Office,
Uthukuli,
Tiruppur District.

2.M.Kandasamy

3.M.Ponnusamy

4.Kondathal

5.K.Muthuraj

6.K.Srinivasan

7.Muthulakshmi

... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, praying for issuance of Writ of Prohibition prohibiting the respondents herein from in any way conducting inspection and measurements in S.F.No.337/4, Neruperichal Village, Tirupur Taluk and District pending disposal of the A.S.No.563 of 2016 on the file of this Court.



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W.P.No.10057 of 2017

For Petitioner : M.Vishali,
for M/s.K.Govi Ganesan

For Respondent 1 : Mr.U.Bharanidharan,
Additional Government Pleader

For Respondents 2 & 3 : Mr.N.Manoharan

For Respondents 4 to 7 : M/s.K.Sandhya,
for M/s.Sarvabhauman Associates

ORDER

The petitioner has filed this writ petition for issuance of Writ of Prohibition prohibiting the respondents herein from in any way conducting inspection and measurements in S.F.No.337/4, Neruperichal Village, Tirupur Taluk and District pending disposal of the A.S.No.563 of 2016 on the file of this Court.

2. The case of the petitioner is that the property comprised in S.F.Nos.337 and 338 to an extent of 11.60 and 3.07 acres situated at Neruperuchal Village, Tiruppur Taluk was originally belonged to V.S.Muthusamy Gounder, Kaliappa Gounder, Rakkiappa Gounder and Ponnusamy Gounder and each were entitled to 1/4th share in the said

Page No.2 of 7



W.P.No.10057 of 2017

properties. This being the case, the aforesaid Ponnusamy Gounder alienated his 1/4th share to the petitioner's father and later, the petitioner's father bequeathed his share in favour of the petitioner vide Will dated 05.01.2007. Likewise, the said Rakkiyappa Gounder alienated his 1/4th share in favour of respondents 2 and 3. Thus, the respondents 2 and 3 are entitled to half share, the legal heirs of Kaliappa Gounder viz., respondents 4 to 7 are entitled to 1/4th share and the petitioner is entitled to 1/4th share. In spite of repeated requests, the respondents 2 to 7 did not come forward for amicable partition. Hence, the petitioner filed a Suit in O.S.No.250 of 2013 on the file of II Additional District Court, Tiruppur for partition and separate possession and the same was dismissed on 15.06.2016.

2.1. In view of the above, the petitioner filed a Regular Appeal in A.S.No.563 of 2016 before this Court, which is pending till date. When the statutory appeal is pending before this Court, the fourth respondent has approached the first respondent for surveying the property in S.F.No.337/4, Neruperichal Village, Uthukuli Taluk, which is one of the subject matter of the suit properties. Aggrieved over the same, the petitioner has filed this writ



W.P.No.10057 of 2017

petition.

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3. Learned counsel for the petitioner would submit that though regular appeal in A.S.No.563 of 2016 is pending before this Court, approaching the first respondent for surveying the subject property is not sustainable one, however, he prayed that this Court, may issue a direction to the first respondent not to conduct any inspection or measurement in the subject property, till the disposal of aforesaid appeal.

4. Learned counsel appearing for the private respondents would submit that this Court may permit the private respondents for filing appropriate application before this Court, where an appeal is pending.

5. Heard the learned counsel on either side and perused the materials available on record.

6. In view of the consent expressed by both the parties, this Court,



W.P.No.10057 of 2017

without going into the merits, directs the first respondent not to conduct an enquiry or measurement in the disputed property, till the disposal of appeal in A.S.No.563 of 2016, which is pending before this Court. Once the said appeal is disposed, it is open to the succeeding party to file appropriate application before the Revenue Officials for appropriate remedy.

7. With the aforesaid direction, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

18.11.2022

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Index : Yes/No

Speaking Order : Yes/No

To:

The Tahsildar,
Taluk Office,
Uthukuli,
Tiruppur District.



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W.P.No.10057 of 2017

M.DHANDAPANI,J.

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W.P.No.10057 of 2017



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W.P.No.10057 of 2017

18.11.2022