



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.01.2022

CORAM

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THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P(MD).No.1696 of 2022

and

W.M.P(MD)No.1495 of 2022

1.Karuthaveeran

2.Sakkanan

3.Karumban

...Petitioners

Vs.

1.The District Collector,
Madurai District,
Madurai.

2.The District Revenue Officer,
Madurai District,
Madurai.

3.Palraj

...Respondents

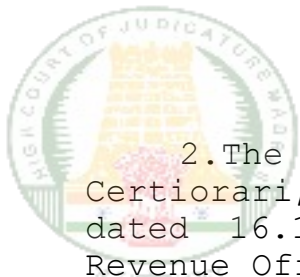
Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records relating to the impugned Notice bearing Na.Ka.No.G5/53989/2021, dated 16.12.2021, issued by the second respondent pending the civil suit in O.S.No.36/2021, on the file of the District Munsif cum Judicial Magistrate, Peraiyur and to quash the same.

For Petitioners : Mr.M.Gnanagurunathan

For R1 and R2 : Mr.N.Satheesh Kumar
Additional Government Pleader

ORDER

I am not impressed with the nature of the relief sought in the present Writ Petition.



2.The Writ Petition has been filed in the nature of Certiorari, seeking a direction against the impugned notification, dated 16.12.2021, issued by the second respondent/the District Revenue Officer, Madurai District, Madurai.

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3.The petitioners are the eighth, ninth and seventh defendants respectively in pending suit in O.S.No.36/2021, which is now pending before the District Munsif cum Judicial Magistrate at Peraiyur. Such suit had been filed by the eighth plaintiff and the third respondent herein is the eighth plaintiff and the relief sought in the said suit that the plaintiffs are in joint possession of the schedule mentioned properties and seeking a consequential restraint from the defendants therein from interfering with the possession and also for a declaration that a particular sale deed registered as document No.4316/2020, dated 22.12.2020 in the Office of the second respondent/Sub Registrar, Peraiyur, is null and void and that, pursuant to such document, the defendants therein should not cause any encumbrance of the property and for a further declaration that the said sale deed is non-est in the eye of law and for consequential reliefs. Parallely, the third respondent herein appears to have given a complaint before the second respondent on the ground that the document which is also a subject matter of the suit, is a result of a fraud committed and therefore, seeking intervention to cancel the document, the second respondent had issued notice to the petitioner herein, dated 16.12.2021, calling upon the petitioners to appear for enquiry.

4.The Writ Petition has been filed questioning such notice.

5.The learned Counsel for the petitioners pointed out that the suit had also been filed seeking to set aside the particular document/sale deed and parallely, an enquiry by the second respondent to cancel the sale deed, would not be maintainable and that the second respondent does not have jurisdiction to enquire into it. It had been stated that since suit had been filed and the parties should be advised to go before the Civil Court and agitate all of the issues there, parallel enquiry before the second respondent is not advisable.

6.However, the very facts can be informed to the second respondent by the petitioners herein. It is only a notice inviting the petitioners to appear for an enquiry. The choice, is of course, with the petitioners whether to appear for an enquiry. It is only advisable to appear and point out all the facts to their knowledge and if according to them, the second respondent does not have jurisdiction to enquire into the issue and also put it in writing and inform the second respondent to give an answer on the jurisdiction.



7.Particularly, when the suit is pending, the Writ Court cannot interfere with the notice calling upon the petitioner to appear for an enquiry. The jurisdiction is vested only with the second respondent to pass necessary orders pursuant to any enquiry conducted and during the course of such enquiry, issue of jurisdiction will also have to be answered by the second respondent.

8.The Writ Petition is premature and the same is dismissed. No costs. In view of the nature of the order passed, I am not issuing notice to the third respondent. Consequently, the connected Miscellaneous Petitions are also closed.

Sd/-

Assistant Registrar(CS-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

lr

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The District Collector,
Madurai District,
Madurai.

2.The District Revenue Officer,
Madurai District,
Madurai.

+1 CC to M/s.SPL.GP (SR-3332[F] dated 01/02/2022)

+1 CC to M/s.M.GNANAGURUNATHAN, Advocate (SR-3190[F] dated 31/01/2022)

W.P (MD) .No.1696 of 2022
31.01.2022

dks (CO)

TR(14.02.2022) 3P 5C