



W.P.(MD)No.14826 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.08.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.14826 of 2022

Dr.Ramakrishnan

... Petitioner

Vs

1.The Tahsildar,
Peraiyur Taluk,
Madurai.

2.Duraipandi Nayakkar.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the first respondent to consider the petitioner's application, dated 31.01.2022, which was sent by the petitioner to sub divide the land with an extent of 1 Acre 95 Cents out of the 2 Acres 86 Cents in Survey No.244/6B2 and 36 Cents in Survey No: 244/6B3 both situate in Silarpatti Village, Peraiyur Taluk, Madurai and issue separate patta in respect of the same which is owned by the petitioner and the other legal heirs of the petitioner's mother Santhosammal within a time stipulated by this Court.

For Petitioner : Mr.S.M.Arun Kumar

For Respondents : Mr.K.Balasubramani
Special Government Pleader for R.1
Mr.R.R.Kannan for R.2



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ORDER

Heard the learned counsel on either side.

2. The writ petitioner has submitted a petition dated 31.01.2022 seeking sub division of the petition mentioned lands and issuance of seperate patta in his name. The first respondent issued notice dated 12.05.2022 calling upon the petitioner and the second respondent to appear for enquiry on 17.05.2022. The enquiry, however, could not get concluded. The apprehension of the writ petitioner is that in view of the pendency of O.S.No.90 of 2019 on the file of District Munsif Court, Peraiyur the first respondent may not dispose of the matter. The said suit was filed by the second respondent herein seeking the relief of permanent injunction. The writ petitioner has also raised a counter claim in the said suit. The suit is not for relief of permanent injunction. Therefore, the first respondent need not stay his hands. In any event, the second respondent has not obtained any interim order against the enquiry. Only if there is any restraint order, the first respondent ought not to proceed with the matter. Likewise, if any declaratory suit had been filed then also the Revenue Authority shall not hold any parallel enquiry. In the case on hand neither of the circumstances are present.



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3. I, therefore, direct the first respondent to conclude the enquiry in to the petitioner's application and pass appropriate orders on merits and in accordance with law. I make it clear that I have not gone in to the merits of the matter. The second respondent will have to be heard and given the fullest opportunity to place his case. Whatever be the outcome of the petition mentioned enquiry, the same shall not have any bearing on the outcome of the suit proceedings. Neither of the parties will be entitled to take advantage of the order that may be passed by the first respondent. The first respondent shall pass final order on merits and in accordance with law within a period of twelve weeks from the date of receipt of a copy of this order.

4. This writ petitioner is disposed of. No costs.

12.08.2022

Index : Yes / No
Internet : Yes/ No
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To

The Tahsildar,
Peraiyur Taluk,
Madurai.



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G.R.SWAMINATHAN, J.

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