



WEB COPY



W.P.No.32376 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.07.2023

CORAM

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

W.P.No.32376 of 2013

Mini R.C

...
/vs/

Petitioner

1.The Hon'ble Chief Secretary,
Govt. of Tamil Nadu,
Govt.Secretariat,
Chennai.

2.The Inspector General of Registration,
No.100 Santhome High Road,
Pattinapakkam, Chennai 600 028.

3.The District Collector,
Collectorate of Chennai,
Office of the Collectorate,
Chennai 600 001.

4.The Thasildar,
Mambalam – Guindy Taluk,
Bharathidasan Salai,
K.K.Nagar, Chennai 600 078.
(Near K.K.Nagar Telephone Exchange)

5.The Sub Registrar of Velacherry,
Velacherry Sub Registrar office,
Velacherry, Chennai – 600 042.

...

Respondents



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PRAYER : The Writ petition has been filed under Article 226 of Constitution of India for issuance of certiorarified Mandamus to call for the records relating to the 3rd respondent letter No.P6/8335/2013 dated 05.06.2013 and quash the same and consequentially direct the respondents 1 to 3 to accord sanction to prosecute the 4th and 5th respondents namely, the Tahsildar, Mambalam-Guindy Taluk and the Sub Registrar, Velacherry Sub Registration office, Velacherry, Chennai – 600 042 under Section 197 of Criminal procedure Code.

(Prayer amended as per order dated 19.02.2015 in M.P.No.1 of 2014 in W.P.No.32376 of 2013)

For Petitioner ... Ms.M.F.Shabana

For Respondents ... Mr.P.Sathish
Additional Govt.Pleader

ORDER

The writ petition has been filed for certiorarified Mandamus to call for the records relating to the 3rd respondent letter No.P6/8335/2013 dated 05.06.2013 and quash the same and consequently direct the respondents 1 to 3 to accord sanction to prosecute the 4th and 5th respondents namely, the Tahsildar, Mambalam-Guindy Taluk and the Sub Registrar, Velacherry Sub Registration office, Velacherry, Chennai – 600 042 under Section 197 of Criminal procedure Code.



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2. The learned counsel appearing for the petitioner submitted that initially the writ petition was filed for mandamus directing the respondents 1 to 3 to accord sanction to prosecute the 4th and 5th respondents namely, the Tahsildar Mambalam – Guindy Taluk and the Sub Registrar Mambalam Guindy Taluk under Section 197 of Criminal Procedure Code, subsequently, it was amended. Further, he submitted that the 4th and 5th respondents, namely, The Thasildar and The Sub-Registrar of Velacherry, wantonly and intentionally refused to implement the order passed by the third respondent/District Collector. Therefore, the petitioner requested to grant sanction but the District Collector passing the impugned order dated 05.06.2013 rejected the request of the petitioner on the ground that with regard to transfer of patta, based on the Will said to have been executed by Thiru Damodara Pillai, was disposed of on 04.03.2003 stating that there was a dispute over the legal heirs of Thiru Damodara Pillai and the genuineness of the Will has to be adjudicated by the competent civil Court. Under these circumstances, the disciplinary action on the part of the Tahsildar is unwarranted. Therefore, The Collector by passing the



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impugned order rejected the petitioner's request. Hence, it is under challenge.

3.The learned Additional Government Pleader appearing for the respondents submitted that in the impugned order, the District Collector clearly stated about non warranting of disciplinary proceedings, under these circumstances, there is no ground for taking disciplinary action against the Tahsildar and he did not disobey any order of the higher authorities.

4.I have considered the matter in the light of the submissions made by the learned counsel for the petitioner as well as the learned Additional Government Pleader for the respondents.

5.I have gone through the order of the District Collector dated 05.06.2013 runs as follows:

***“With reference to your complaint petition dated
18.03.2013 requesting for non compliance of the
Collectors proceedings in J5/9165/99 dated***



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5.10.99. It is informed that an appeal petition was preferred by yourself to the appellant authority namely Special Commissioner and Commissioner of Land Administration against the said Collector's Proceedings. In this regard the CLA has ordered that request for transfer of patta, based on the Will said to have been executed by Thiru Damodara Pillai was disposed of on 4.03.2003 stating that there was a dispute over the legal heirs of Thiru Damodara Pillai and the genuineness of the Will and also a Civil Suit was filed by the respondent namely Tmt.Shyamala, w/o.thiru Karunakaran and the matter would be decided only after the decisions of Hon'ble High Court.

Hence, such in the said circumstances the disciplinary action on the part of Tahsildar, Mambalam-Guindy Taluk, Chennai -78 for non-compliance of the proceedings of Collector could not be taken at this moment.”



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6.It is noticed that there is a dispute with regard to the legal heirs of Damodara Pillai. Initially patta was granted in favour of Shyamala. Subsequently, the petitioner filed an appeal petition before the Special Commissioner and Commissioner of Land Administration against the proceedings of the Collector. In this regard, CLA has ordered that request for transfer of patta, based on the Will said to have been executed by Thiru Damodara Pillai, was disposed of on 04.03.2003. Since there is a dispute over the legal heirs of Damodara Pillai, the genuineness of Will is questioned and it has to be adjudicated by the competent civil Court and she admitted that there is a civil suit pending filed by the Shyamala. Under these circumstances, the District Collector found that there is no circumstance warranting to take disciplinary action on the part of the Tahsildar. In this regard, I find no reason and ground at present to grant sanction for initiating disciplinary proceedings against the respondents 4 & 5 and there is no infirmity in the impugned order.



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7. In the result, the writ petition is dismissed. No costs.

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Index : Yes/No
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To

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6. The Public Prosecutor
High Court, Madras.



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V.SIVAGNANAM ,J.

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