



WEB COPY



Order dated 04.10.2023
in W.P.No.9990 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 04.10.2023

Coram:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No.9990 of 2022
and
W.M.P.Nos.9695 of 2002 and 9552 of 2023

A.Amirtharaj

Vs.

.. Petitioner

1. The District Collector,
Chennai District,
Singaravelar Maligai, Chennai-1.

2. The District Revenue Officer,
Central Chennai Division,
Chennai District,
Anna Nagar West Extension,
Chennai-600 101.

3. The Thasildhar,
Mambalam Division,
Chennai-600 078.

4. A.Jayapandian

5. A.Veerapandian

6. J.Andrews

7. V.Alben

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying
for issuance of a Writ of Certiorarified Mandamus to call for the records

Page No.1/8



Order dated 04.10.2023
in W.P.No.9990 of 2022

pertaining to the impugned proceedings initiated by the second respondent in Na.Ka.En.3439/2021/அ3, dated 23.11.2021 and also order passed by the third respondent in Na.Ka.No.099/அ1/2022, dated 25.03.2022 and quash the same as illegal and without jurisdiction.

For petitioner : Mr.S.Packiaraj

For respondents : Mrs.N.Senthil Selvi, Government Advocate
for RR-1 to 3

Mr.M.Velmurugan for RR-4 to 7

ORDER

The petitioner has filed the Writ Petition challenging the proceedings of the second respondent in Na.Ka.En.3439/2021/அ3, dated 23.11.2021 and order passed by the third respondent in Na.Ka.No.099/அ1/2022 dated 25.03.2022, and prayed to issue a Writ of Certiorarified Mandamus and to call for the records pertaining to the impugned orders and quash the same.

2. The writ petitioner submits that he had obtained a Decree in the Original Suit in O.S.No.12804 of 2010 (since transferred from Madras High Court in C.S.No.545 of 2006) on the file of the IV Additional Judge, City Civil Court, Chennai. In the said suit, the petitioner herein, as plaintiff, had obtained a decree on 26.08.2021 declaring him as absolute owner of all the piece and

Page No.2/8



Order dated 04.10.2023
in W.P.No.9990 of 2022

parcel of the property bearing Door No.53, Andiappa Naicken Street, West Mambalam, Kodambakkam Village, Chennai, comprised in Survey No.201, T.S.No.17, Block No.64, ad-measuring 5543 Sq.Ft. and also that the defendants or their agents are restrained by way of consequential permanent injunction from interfering with the peaceful possession and enjoyment of the said suit schedule mentioned property of the plaintiff.

3. As seen above, the petitioner (plaintiff) had obtained the said judgment and decree in O.S.No.12804 of 2010, but still, the surveyor has re-agitated the issue and seeks summons for measuring the property in question once again. Hence, the petitioner has filed the present Writ Petition for the relief stated above.

4. It is the main contention of the learned counsel for the petitioner that, even though the petitioner had obtained the said Decree in his favour in the said suit, now the Surveyor is re-agitating the issue, thereby it has led to filing of the FIR under Section 145 Cr.P.C., in FIR.No.563 of 2021 on 01.11.2021 at the instance of one Vivekanandan.

5. Heard the learned Government Advocate appearing for respondents 1

Page No.3/8



Order dated 04.10.2023
in W.P.No.9990 of 2022

to 3 on the above facts.

WEB COPY

6. Learned counsel appearing for the private respondents 4 to 7, while reiterating the facts by filing counter affidavit, submitted that survey numbers in T.S.Nos.15 and 16 relate to the property of the petitioner, whereas T.S.No.17 was acquired for forming a Road and it is now stated that the Road work is also over and hence, T.S.No.17 is not existing as on date.

7. It is further contended by the learned counsel appearing for private respondents that the writ petitioner has trespassed into the property under dispute, which belongs to the private respondents and hence, one Vivekanandan has made a complaint before the jurisdictional Police, leading to the registration of the FIR (supra) and that there is an apprehension that law and order problem might be created, and therefore, in order to give quietus to the issue in respect of measuring the property in dispute, the private respondents 4 to 7 had approached the surveyor and they have also sent notice to the writ petitioner herein.

8. Heard both sides and perused the materials available on record.

Page No.4/8



Order dated 04.10.2023
in W.P.No.9990 of 2022

9. The petitioner has filed this writ petition for issuance of a Writ of Certiorarified Mandamus to call for the records in respect of the impugned proceedings initiated by the second respondent and also the order passed by the third respondent, stated supra.

10. Though already the writ petitioner has filed a suit in O.S.No.12804 of 2010 (supra), and obtained a Decree therein, before the City Civil Court, but from the records, it is seen that even the private respondents 4 to 7 had also filed a civil suit in O.S.No.323 of 2001 for declaration and injunction in respect of the property in question therein, and the same is pending.

11. Thus, when once the private respondents herein had approached the Civil Court and also filed the said suit, it is open for them to work out their remedy before the Civil Court in accordance with law, and they are precluded from approaching the Police/Revenue Authorities.

12. In the above circumstances, as the private respondents themselves have stated that T.S.No.17 is only a 'Road' and the property in question does not even relate to T.S.No.17, there is no necessary for the concerned authority to issue summons to the writ petitioner or the owners/necessary parties, or owner



Order dated 04.10.2023
in W.P.No.9990 of 2022

of any one of the boundaries in relation to the subject matter, i.e. to measure the property of the writ petitioner.

13. Therefore, in the above stated facts and circumstances, the impugned orders passed by the respective respondents, are quashed. However, the private respondents 4 to 7 has claimed that in respect of T.S.Nos.15 and 16, they have already approached the Civil Court in O.S.No.323 of 2001, and hence, the parties to this Writ Petition are at liberty to work out their remedy in the above said Civil Suit in O.S.No.323 of 2001 in accordance with law and also on the merits of the matter.

14. The Writ Petition is allowed as prayed for. There shall be no order as to costs. Consequently, the miscellaneous petitions are closed.

04.10.2023

Index: Yes/no

Speaking Order: Yes/no

Neutral Citation: Yes/no

CS

Page No.6/8



Order dated 04.10.2023
in W.P.No.9990 of 2022

To

WEB COPY

1. The District Collector,
Chennai District,
Singaravelar Maligai, Chennai-1.
2. The District Revenue Officer,
Central Chennai Division,
Chennai District,
Anna Nagar West Extension,
Chennai-600 101.
3. The Thasildhar,
Mambalam Division,
Chennai-600 078.

P. VELMURUGAN, J

Page No.7/8



WEB COPY



Order dated 04.10.2023
in W.P.No.9990 of 2022

CS

W.P.No.9990 of 2022

04.10.2023