



W.P.No.12206 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 15.03.2023

C O R A M

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

W.P.No.12206 of 2018

and

W.M.P.No.12240 of 2018

V.Kumarasamy

... Petitioner

Vs

1. The District Collector,
Kanchipuram,
Kanchipuram District.
2. The Superintendent of Police,
Kanchipuram,
Kanchipuram District.
3. The District Revenue Officer,
Kanchipuram,
Kanchipuram District.
4. The Revenue Divisional Officer,
Kanchipuram,
Kanchipuram District.
5. S.Santhanam

... Respondents



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PRAYER : Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus or such other Writ, Direction or Order, directing the 2nd respondent to conduct the proper enquiry on the basis of the petitioner representation to the respondents on 02.05.2018 and consider the petitioner representation dated 02.05.2018 to give police protection.

For Petitioner ... M/s.M.Senthamizh Selvan

For Respondents ... Mr.K.M.D.Muhilan,
Additional Government Pleader for R1 to R4
... M/s.R.Thiagarajan for R5

ORDER

This Writ Petition has been filed for a direction to the 2nd respondent to conduct the enquiry on the basis of the petitioner's representation dated 02.05.2018 and to give police protection.

2. Today, when the matter is taken up for hearing, none appeared for the petitioner. Even on earlier occasions, none appeared for the petitioner. However, considering the relief sought for in this Writ Petition, based on the facts and materials, this Court is inclined to decide the issue on merits.



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3. It is the case of the petitioner that due to the dispute between the petitioner and his late brother namely K.P.Srinivasa Mudaliar, a partition suit was filed in O.S.No.29/1966 on the file of the Principal District Munsif Court, Kanchipuram and the same is pending. After the demise of his brother, the 5th respondent who is the younger son of said K.P.Srinivasa Mudaliar having created a forged will, has impleaded him as a party in the suit. Subsequently, another suit was filed by the elder son of K.P.Srinivasa Mudaliar in O.S.No.54/2016 on the file of the Fast Track Court, Kanchipuram and the same is pending. In order to transfer the suit in O.S.No.29/1966 to Fast Track Court at Kanchipuram, the petitioner filed Tr.O.P.No.93/2016 before the District Judge-II, Kanchipuram which is also pending. Subsequently, the petitioner has also filed C.R.P.No.1604/2018 before this Court which is still pending. Now, the 5th respondent has trespassed into the suit property claiming to have purchased the suit property vide the sale certificate through court. Hence, the petitioner made a representation dated 02.05.2018 to the respondents seeking to conduct enquiry with regard to the forged document created by the 5th respondent. Since, the same has not been considered till date, the petitioner has come up with this Writ Petition.



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4. Learned counsel for the 5th respondent submits that the 5th respondent has purchased the subject property by way of a sale certificate through the court. While so, the petitioner being not the title holder of the property has no right to question the ownership of the subject property. Further, CRP.No.1604/2018 which was filed by the petitioner was dismissed, against which, SLP was filed before the Hon'ble Supreme Court, which was also dismissed. In view of the same, this Writ Petition is not maintainable.

5. In view of the fact that already suits were filed before the competent civil court as against the schedule property and since the issue pertains to the title to the property, the same can be decided only by the competent civil court. Further, it is the claim of the 5th respondent that he has purchased the schedule property vide sale certificate through the court. In such view of the matter, the proper course open for the petitioner is to challenge the sale certificate. Without challenging the sale certificate in respect of the schedule property, filing Writ Petition before this Court is not sustainable.



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6. However, inspite of the fact that the facts in the case stare as above, even after grant of opportunities, the petitioner has neither appeared through counsel or in person which only shows that the petitioner is not inclined to prosecute the case, despite the fact that the case is of the year 2018. Therefore, no useful purpose would be served in keeping the matter on board. For non-inclination of the petitioner to prosecute the case, this Writ Petition is dismissed for non-prosecution. There shall be no order as to costs. Consequently, the connected Miscellaneous Petition is closed.

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Index: Yes/No

Internet: Yes

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M.DHANDAPANI, J.

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To

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