



W.P.No.29785 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.11.2023

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No.29785 of 2023
and
W.M.P.No.29391 of 2023

R.Subbaraj
S/o.Ramasamy

... Petitioner

versus

1. The Deputy Inspector General of Registration
Guindy
Chennai-600 032.
2. The District Registrar (Administration)
South-Chennai, Fanepet,
Nandanam
Chennai-600 035.
3. The Revenue Divisional Officer
South Chennai
Guindy,
Chennai-600 032.
4. K.C.Shantha
D/o.K.C.Gopalchari
5. S.V.Krishnasamy
S/o.Veerama Reddiar

Pg.Nos.1/6



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6. Hemalatha
W/o.Krishnasamy

7. S.Karthikeyan
S/o.R.V.Subbaraman

...Respondents

Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records dated 06.01.2022 vide Ref.No.Na.Ka.1614/B1/2022 on the file of first respondent confirming the order of the second respondent in order vide Na.Ka.No.12446/E2/2021 dated 29.01.2022 and quash the same and consequently, to direct the third respondent not to cancel the patta by acting on the orders of the first and second respondents.

For Petitioner : Mr.R.Vijayaraghavan
For Respondent : Mr.Yogesh Kannadasan
Special Government Pleader
for R1 to R3

ORDER

The writ petition has been filed seeking to quash an order dated 06.01.2022 (though the order is dated 06.01.2022 but the same was signed on 10.01.2023) bearing reference Na.Ka.No.1614/AA1/2022 passed by the first respondent confirming the order of the second respondent vide order dated 29.01.2022 bearing reference Na.Ka.No.12446/E2/2021 and consequently, direct the third respondent to not to cancel the patta by acting on the orders of the first and second respondents.

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2. Heard the learned counsel for the petitioner and the learned Special Government Pleader for respondents 1 to 3.

3. The learned counsel for writ petitioner submits that the second respondent passed an order dated 29.01.2022 invoking the power granted to him vide Circular dated 09.07.2021 bearing reference No. No.20217/Nu.1/2021 issued by the first respondent and cancelled the sale deeds dated 23.01.2007 and 16.06.2010. The writ petitioner preferred an appeal to the first respondent herein on 28.03.2022 against the order dated 29.01.2022 of the second respondent. The first respondent vide his order dated 10.01.2023, after due enquiry, confirmed the order of the second respondent dated 29.01.2022. Though both the first and second respondents cancelled the documents but held that the cancellation is subject to the proceedings pending before the Civil Court.

4. The learned counsel for petitioner submits that this Court has already held that the operation of Section 77-A of the Indian Registration



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Act, 1908 is retrospective and therefore, the orders dated 10.01.2023 and 29.01.2022 passed by the respondents 1 and 2 are liable to be set aside and order dated 10.01.2023 passed by the first respondent has to be quashed. The learned counsel submits that the writ petitioner is the owner of the property, he has been in possession of the property, patta stands in his favour and he has also filed a civil suit in O.S.No.592 of 2011 and interlocutory application seeking for interim injunction restraining private respondents from interfering with his peaceful possession.

5. As it is stated that a civil suit is pending regarding the title, the petitioner has obtained temporary injunction against the private respondents the matter has to be decided based on oral and documentary evidences regarding the validity of the documents, the petitioner has also approached the Civil Court and the second respondent has also given a finding that the subject matter will be decided based on the outcome of the civil suit, this Court is not inclined to entertain this writ petition.



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6. Considering the facts and circumstances of the case and considering the fact that the petitioner himself has admitted that he has filed a suit and also got an order of interim injunction against the private respondents and all rights can be decided in the civil suit, this Writ Petition is dismissed. It is made clear that the concerned Judge, before whom, the civil suit is pending is at liberty to decide the matter on its own merits regarding the rights and title of the parties uninfluenced by the observations made by this Court in this order. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

06.11.2023

Speaking/Non-speaking order

Index:Yes/No

Neutral citation : Yes/No

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South-Chennai, Fanepet,
Nandanam, Chennai-600 035.
3. The Revenue Divisional Officer
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P.VELMURUGAN, J.

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