



W.P(MD)No.7667 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:06.04.2023

CORAM

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P(MD).No.7667 of 2023
and WMP(MD)No.7125 of 2023

1. G.Srinivasan

2. S.Selvarni

... Petitioners

Vs

1. The District Revenue Officer,
District Collector Office Campus,
Madurai District, Madurai- 625 020.

2. Selvaraj V

... Respondents

Prayer:Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records of the first respondent, dated 06.03.2023 in proceedings Na.Ka.No. G5/E-117252/2022 quash the same as the same is arbitrary, in colorable exercise of power in suppression of O.S.No. 181 of 2022, on the file of the learned Sub Court, Usilampatti.



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For Petitioner :Mr. R.G.Shankar Ganesh
For R1 :Mr.N.Muthu Vijayan
Special Government Pleader

ORDER

Heard, Mr.R.G.Shankar Ganesh, the learned counsel appearing for the petitioner and Mr.N.Muthu Vijayan, learned Special Government Pleader appearing for the first respondent.

2.The writ petition has been filed questioning the issuance of notice by the first respondent, dated 06.03.2023 in proceedings in Na.Ka.No. G5/E-117252/2022, since it is stated that it is a colorable exercise of power in suppression of pendency of O.S.No. 181 of 2022, on the file of the learned Sub Court, Usilampatti.

3.If a suit is pending, the District Revenue Officer would never know about the pendency, unless it is brought to his knowledge. In that suit, the petitioners are the third and fourth defendants. The second respondent is the second plaintiff. The suit had been filed, seeking a declaration that the



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suit property is the absolute property of the plaintiffs therein and for permanent injunction, restraining the defendants, which also include the petitioners herein from interfering with peaceful possession and for declaration that the registered settlement deed, dated 26.07.2021 executed by the first defendant in favour of the second defendant is null and void and for declaration that the registered settlement deed, dated 22.09.2021 executed by the second defendant in favour of the third defendant/second petitioner herein is null and void and for declaration that the registered settlement deed, dated 28.02.2022 executed by the third defendant/second petitioner herein in favour of the fourth respondent/first petitioner herein is null and void. It is thus seen from the suit that the title claimed by the petitioners are put in question.

4.It is the contention of the learned counsel for the petitioners that earlier one Chellam claiming to be the owner of the property, filed a suit in O.S.No.19 of 1998, before the District Munsif, Usilampatti. That suit was dismissed by Judgment and decree, dated 20.02.2001, against which, a First Appeal had been filed in A.S.No.72 of 2001, before the Sub Court, Usilampatti. It was also dismissed by Judgment and decree, dated 25.02.2010. Further, a Second Appeal was also filed in S.A.No.884 of 2011.



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The same had been dismissed as abated by Judgment and decree, dated 14.10.2020. It is therefore stated that the suit filed in O.S.No.181 of 2022, before the District Munsif, Usilampatti is a re-litigation of the same issue once again. This fact should be brought to the knowledge of the first respondent.

5.A direction is given to the petitioners/third and fourth defendants in O.S.No.181 of 2022 to point out before the first respondent, about the earlier round of litigation and about the present suit pending and impress upon the first respondent that since the suit is pending, it only appropriate that the first respondent should refrain from passing order. Thereafter, the first respondent shall take a decision, keeping in mind the earlier Judgments and decrees and the fact that in the earlier litigation the matter went upto second appeal and also the facts in O.S.No.181 of 2022 and decide whether he can still decide upon the title of the properties or upon the nature of property as per the revenue records.



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6.This Writ Petition stands dismissed. No costs. Consequently,
connected miscellaneous petition is closed.

06.04.2023

NCS :Yes/No
Index :Yes/No
Internet:Yes/No

PNM

To

1. The District Revenue Officer,
District Collector Office Campus,
Madurai District, Madurai- 625 020.



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C.V.KARTHIKEYAN,J.

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ORDER IN
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