



W.P.(MD)No.11566 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.07.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.11566 of 2020
and
W.M.P(MD)No. 10079 of 2020

PL.Aavichi

... Petitioner

Vs.

1. The District Collector,
Sivagangai, Sivagangai District.
2. The District Revenue Divisional Officer,
Collectorate Complex, Sivagangai.
3. The Revenue Divisional Officer,
Devakottai, Sivagangai District.
4. The Tahsildhar,
Karaikudi, Sivagangai District.
5. P.Ganespandian

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of *Writ of Certiorari*, calling for the records relating to the impugned notice issued by the 3rd respondent in Na.Ka.A1/4529/2020, dated 03.09.2020 and quash the same.



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For Petitioner : Mr.V.R.Shanmuganathan, for
Mr.AL.Kannan

For R-1 to R-4 : Mr.M.Ramesh
Government Advocate

For R-5 : Mr.V.Karthik Raja, for
M/s.Ajmal Associates

ORDER

This writ petition is filed for *Writ of Certiorari* challenging the impugned notice, dated 03.09.2020.

2. The contention of the petitioner is that there are rival claimants to the property in dispute. Originally the land belongs to one Athmanathan son of Appavu Aasari and his brother Kumarappan son of Appavu Asari. The said Kumarappan had borrowed loan from one Krishnan son of Ramasamy Chettiar and failed to repay, hence a suit for recovery of money was filed in O.S.No.23 of 2004 on the file of Sub Court Devakottai. Pending suit an Interlocutory Application in I.A.No.89 of 2004 in O.S.No.23 of 2004 was filed for attachment of the immovable property belonging to the said Kumarappan. The Court below



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has allowed the said I.A.No.89 of 2004 vide order, dated 02.04.2004. The said suit was allowed by an exparte Judgment, dated 22.04.2004. But the said Ramasamy Chettiar neither taken steps to execute the decree nor registered the decree before the registration department. The said decree is not reflecting in the encumbrance certificate.

3. On the other hand the said Athmanathan had executed General Power of Attorney in favour of his brother Kumarappan in respect of his share. The said Kumarappan has sold the property to one G.Shanmugam through registered sale deed dated 09.06.2008 for a valuable sale consideration. Who in turn had sold to one R.Vijayaanand son of Ramamoorthy, who in turn had sold the property to the petitioner. The petitioner after verifying the encumbrance had purchased the property.

4. After lapse of 16 years the said Krishnan had lodged complaint on 27.01.2020 with the District Registrar and claimed that he got attachment of the property and suppressing all facts the property is sold. After conducting enquiry, the District Registrar declined the claim of the said Krishnan. But the said



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Krishnan has granted General Power of Attorney to one Ganesapandian and the agent had preferred police complaint and the petitioner was threatened. Hence the petitioner filed O.S.No.27 of 2020 on the file of the Additional District Munsif Court Karaikudi. The respondents approached the revenue officials and filed a petition on 07.07.2020 and on receipt the RDO has issued summons dated 03.09.2020 directing the petitioner to appear for enquiry on 07.09.2020. The petitioner submitted preliminary objections that the title dispute is pending before competent civil court and hence the revenue officials have no authority to entertain the petition and decide the title of the property. But the respondents are proceeding with the petition and is on the verge of passing final orders based on the preliminary objections. Hence the petitioner has approached this Court through this writ petition.

5. According to the petitioner the O.S.No.23 of 2004 an exparte order was passed, but the Learned Counsel for the respondents submitted that the said suit is pending. It is also seen that the petitioner has filed O.S.No.27 of 2020 and the same is pending. Therefore, this Court is of the considered opinion when the title dispute is pending before the competent civil court, then the revenue officials



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have not jurisdiction to enter any petition. In the civil suit the rights of the parties would be decided. Until then, the Revenue Divisional Officer, Devakottai, has no jurisdiction to conduct any enquiry and to determine the title of the property.

6. Therefore, this Court is inclined to quash the impugned notice, dated 03.09.2020 and the same is quashed. After determining the title of the parties in the aforesaid suit, the parties will be entitled to take appropriate action. The parties are at liberty to raise all issues before the Civil Court. It is made clear this Court has not rendered any finding on the rights of the parties and this order is not an impediment to determine the issue pending in the suit.

7. With these observations and directions, this Writ petition is allowed. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

Index : Yes / No
Internet : Yes
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S.SRIMATHY, J

ksa

**Order made in
W.P.(MD)No. 11566 of 2020**

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