



W.P(MD)No.14148 of 2014

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.08.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.14148 of 2014

and

M.P(MD)No. 2 of 2014

Muthanampatti Village People
Represented by S.Murugan,
Managing Trustee of
Arulmigu Karuppanasamy Temple,
Kuttathupatti Village,
Findigul West Taluk & District.

... Petitioner

Vs

1.The District Revenue Officer,
Dindigul District.

2.The Dindigul West Tahsildar,
Dindigul West Taluk.

3.Pasumpon

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records pertaining to the proceedings in Na.Ka.No.19806/2012/A5 dated 28.07.2014 on the file of the first respondent herein and quash the same as illegal and arbitrary.



W.P(MD)No.14148 of 2014

For Petitioner : No Appearance
For Respondents : Mrs.K.Christy Theboral
Special Government Pleader
for R.1 & R.2

No Appearance for R.3

No Appearance for R.4

ORDER

None appears for the writ petitioner.

2. I went through the contents of the affidavit filed in support of the writ petition. Since it had been stated therein that the petition mentioned property was endowed in favour of one temple, I directed the District Collector to file an affidavit. The District Collector has filed an affidavit and it is seen therefrom that the petition mentioned properties were purchased by one Thangavel Pillai from Sri Rukkumani Ammal vide registered sale deed No.328 of 1969. After the demise of the land owner, his children Kulandaivel Pillai and Sadasivam Pillai inherited the properties. Patta also reflected their names. The joint pattadhar Sadasivam Pillai executed a power of attorney in favour of one Balusamy Thevar and also relinquished his share in the petition mentioned properties. Subsequently, the said power agent sold the property in favour of



W.P(MD)No.14148 of 2014

the third respondent vide registered Document No.1287/2008 dated 05.03.2008.

The third respondent applied for patta transfer and the second respondent effected mutation by including him as joint pattadhar along with Kulandaivel Pillai while RTR No.852/2008 dated 19.03.2008. However, this mutation was set aside by the Revenue Divisional Officer vide order dated 30.07.2010. Aggrieved by the same, the third respondent moved the first respondent who passed the impugned order in favour of the third respondent. The District Collector categorically states that the petitioner is no way related to the subject property and there is nothing on record to support the theory of endowment propounded by the writ petitioner. It is further stated that the third respondent herein is a purchaser from an incumbent pattadhar and therefore the first respondent acted correctly in substituting the name of the third respondent in the place of his vendor. The materials placed by the District Collector indicate that the impugned order does not warrant interference. The impugned order is sustained. If any worshipper is still having any grievance, it is open to him institute a representative suit to establish their rights before the jurisdictional civil Court.

3. I however want to make one observation. Paragraph 20 of the counter affidavit filed by the District Collector reads as follows:



W.P(MD)No.14148 of 2014

“20.I humbly submit that the petitioner has already filed a Writ Petition for the same prayer before this Hon'ble Court in W.P(MD)No.4700 of 2014 and pending before this Hon'ble Court under trial. The petitioner wantonly suppressed the fact and filed this Writ with and Intention to Cripple the activities of the Government; Hence Petitions Contention made in the Writ Petition do not possess and merits and may be rejected accordingly.”

The District Collector has stated that W.P(MD)No.4700 of 2014 is still pending. It is not so. It was dismissed for non prosecution on 14.11.2018. Paragraph 20 claims that the prayer in W.P(MD)No.4700 of 2014 and prayer in W.P(MD)No.14148 of 2014 are one and the same. It is not so. In W.P(MD)No. 4700 of 2014, the petitioner herein has questioned the enquiry notice issued by the District Revenue Officer, Dindigul in O.Mu.No.18906/12/B4 dated 03.10.2012. In the present writ petition, final order dated 28.07.2014 was challenged. Therefore prayer in both the writ petitions are not one and the same.

4. Paragraph No.20 of the counter affidavit does not appear to have been correctly drafted. I would not blame the District Collector, Dindigul. She has to necessarily go by the inputs placed before her. But the law officers have a duty to carefully vet the counter before filing before this Court. Counter



W.P(MD)No.14148 of 2014

affidavits filed by high-ranking officers like District Collector cannot contain factual errors.

5. With this observation, the order impugned is sustained. This writ petition stands dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

02.08.2023

Index : Yes / No
Internet : Yes / No
NCC : Yes / No
MGA

To

- 1.The District Revenue Officer,
Dindigul District.
- 2.The Dindigul West Tahsildar,
Dindigul West Taluk.



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W.P(MD)No.14148 of 2014

G.R.SWAMINATHAN, J.

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W.P(MD)No.14148 of 2014
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