



W.P.No.6832 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.07.2024

CORAM :

THE HONOURABLE MR.JUSTICE J.SATHYA NARAYANA PRASAD

W.P.No.6832 of 2020

K.Kumar

... Petitioner

Vs.

1.The Divisional Executive Magistrate/
Revenue Divisional Officer-cum-Sub-Collector,
Chidambaram, Cuddalore District.

2.The Inspector of Police,
Orathur Police Station,
Chidambaram, Cuddalore District.

3.Gomathi

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to call for the records in Proceedings Na.Ka.No.4397/2019 dated 29.11.2019 on the file of the first respondent and quash the same, consequently direct the first and second respondents to pay the compensation for a sum of Rs.3,00,000/- (Rupees Three Lakhs only).



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For Petitioner : Mr.M.Vijaya Kumar
For Respondents :
For R1 and R2 : Mr.K.Surendran
Additional Government Pleader
For R3 : No appearance

ORDER

This Writ Petition has been filed seeking for issuance of a certiorarified mandamus, to call for the records in Proceedings Na.Ka.No.4397/2019 dated 29.11.2019 on the file of the first respondent and quash the same, consequently direct the first and second respondents to pay the compensation for a sum of Rs.3,00,000/- (Rupees Three Lakhs only).

2. The case of the petitioner is that the petitioner owning residential plot in Survey Nos.39/2, 39/3, 39/4 and 39/8, measuring to an extent of 21 cents situated at Narthangudi Village, Chidambaram Taluk, Cuddalore, as a Joint Pattadar. There is no partition among the Joint Pattadar in respect of the aforesaid property. In the said property, there are nearly ten valuable tress, each are 40 years old, which are well grown. The petitioner's neighbour one Ilangovan given complaint that the branches of the trees are causing nuisance



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for his residential house, thereby, requested the first respondent to remove the same. The first respondent in his proceedings Na.Ka.No.4397/2019 dated 11.10.2019, directed the petitioner to remove the branches of the trees or otherwise approach the first respondent. On 21.10.2019, the petitioner appeared before the first respondent and gave objection. The first respondent without taking note of the objection, summoned the petitioner to appear for inquiry.

3. The further case of the petitioner is that the petitioner's father Kaliyamoorthi, had filed O.S.No.214 of 1998 before the District Munsif Court, Chidambaram, for partition and separate possession of 1/4th share in the suit A Schedule Property. On 01.02.2005, the suit was decreed in favour of the petitioner's father. Despite the petitioner's objection and without considering the petitioner's request for production of certified copy of the decree, the first respondent in Na.Ka.No.4397/2019 passed order on 29.11.2019 and the copy of the same was not served to the petitioner. To the petitioner's shock and surprise, the third respondent with the help of the second respondent removed the entire trees worth about Rs.2,00,000/- situated in Survey Nos.39/2, 39/3, 39/4 and 39/8. In this regard, the petitioner gave a complaint before the second



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respondent on 05.12.2019, but, the same was not considered by the official respondents. Even the Judgment and decree was in favour of the petitioner, the first respondent passed the impugned order without taking note of the Judgment in O.S.No.214 of 1998. Hence the writ petition.

4. Learned counsel appearing for the petitioner submits that as the Judgment and Decree in O.S.No.214 of 1998 dated 01.02.2005 on the file of the District Munsif Court, Chidambaram is in favour of the petitioner, he is in possession and enjoyment of the property.

5. In view of the above, the petitioner is directed to give a representation along with all documents to the first respondent within a period of two weeks from the date of receipt of a copy of this order and the same may be considered by the first respondent taking into consideration the Judgment and Decree passed by the District Munsif Court, Chidambaram in O.S.No.214 of 1998 dated 01.02.2005 and the other documents claiming ownership of the property, which is not in dispute.



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6. If the first respondent comes to a conclusion that the petitioner is the owner of the property based on the documents submitted by the petitioner, amount of compensation may be fixed as per the rules in force as on the date of passing of the impugned order dated 29.11.2019, within a period of six weeks thereafter.

7. This Writ Petition is disposed of with the above observations and directions. No costs.

19.07.2024

Index : Yes/No

Internet : Yes/No

Speaking Order/Non-Speaking Order

Neutral Citation : Yes/No

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To

1.The Divisional Executive Magistrate/
Revenue Divisional Officer-cum-Sub-Collector,
Chidambaram, Cuddalore District.

2.The Inspector of Police,
Orathur Police Station,
Chidambaram, Cuddalore District.



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