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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.11.2024

CORAM

THE HON'BLE Mr. JUSTICE **C.V.KARTHIKEYAN**

W.P.No.33305 of 2024
and W.M.P.Nos.36101 & 36102 of 2024

Mr.Rajinikanth Pillai

.. Petitioner

Vs.

1.The Sub Divisional Magistrate/Revenue Divisional Officer
Public Office Rd,
Maraimalai Nagar,
Nagapattinam,
Tamil Nadu 611 001.

2.P.Vaijyanthi Mala

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records pertaining to the impugned notice passed by the 1st Respondent dated 24.07.2024 vide Na.Ka.No.3435/2024/A3 and to quash the same as illegal, violative of principles of natural justice and non-est in the eyes of law.

For Petitioner

.. Mr.Vaibhav R.Venkatesh

For Respondents

.. Mr.Vadivelu Deenadayalan

Additional Government Pleader for R1

**ORDER**

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This writ petition has been filed in the nature of certiorari seeking records relating to the notice passed by the 1st respondent, Sub Divisional Magistrate/Revenue Divisional Officer at Nagapattinam, Tamil Nadu, dated 24.07.2024 in Na.Ka.No.3435/2024/A3 and to quash the same and pass any other order.

2.The said notice had been issued by the 1st respondent consequent to a petition presented by the 2nd respondent/ P.Vaijayanthi Mala, the mother of the petitioner herein and taking advantage of the provisions of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007. The Show Cause Notice had been issued calling upon the petitioner to participate in the enquiry. Even the hearing date in the said notice was determined as 08.08.2024. It is contended by the learned counsel for the petitioner that the notice itself was received only in the first week of August 2024. But the writ petition had been filed much later on 05.09.2024. Even the date of enquiry had long expired. The Petitioner had not given any further details as to what steps have been taken by the 1st respondent and whether any fresh notice had been issued or not. The petitioner had not participated in the meeting. It is stated on behalf of the 1st respondent by the learned Government counsel that the 2nd respondent did actually participate.



3. The main ground on which the petitioner seeks to interfere with the said notice is that he had instituted a suit in C.S. No.230 of 2023 against the 2nd respondent/his mother and his two other sisters who have been impleaded as the 2nd and 3rd defendants in the said suit. He had sought the relief of partition and separate possession and also for declaration that he is the absolute owner of schedule mentioned properties. It is contended that he had forwarded the sale consideration amount to his father. But, the father had purchased the property in the name of the 1st respondent herein/1st defendant in the suit. It is trite to point out that the person in whose name the title stands is presumed to be the owner of the property unless evidence is produced to draw an adverse presumption regarding the same. As on date, the 1st respondent is the title holder. The petitioner has to tender evidence to first prove that he had forwarded funds and that there was an understanding that the property would be either handed back to him or transferred back to him. But the very petition given by the 1st respondent denies that particular assertion by the petitioner. The 1st respondent asserts title to the said property.

4. The learned counsel for the petitioner stated that quite apart from the notice calling upon the petitioner to attend enquiry, the 1st respondent had also directed the petitioner to handover all the documents relating to the property. It is an enquiry within the exclusive jurisdiction of the 1st respondent and the petitioner herein can always put



up his objections before the 1st respondent and this Court cannot be used as a platform to express any opinion particularly when the enquiry is contemplated by the 1st respondent. The petitioner will have to attend the enquiry and he also has a choice not to attend the enquiry. The discretion can be exercised by him out of pure wisdom. The Court should not interfere at the stage when notice is issued. It is also informed on behalf of the 1st respondent, that the suit aforementioned was originally dismissed for non-prosecution and subsequently restored. It is contended on behalf of the petitioner that an order of *status quo* had been granted. But it is not clear as to what *status quo* meant and what it conveyed and conveys. The petitioner's choice is clear and he has to exercise his choice. He may attend the enquiry and raise objections or he may not attend the enquiry and continue to reside in the premises. But the Court cannot interfere with the enquiry process.

5.This writ petition stands dismissed even without issuing notice to the 2nd respondent. No Costs. Consequently, connected miscellaneous petitions are closed.

18.11.2024

Index:Yes/No
Internet:Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation:Yes/No
ssr



To

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The Sub Divisional Magistrate/Revenue Divisional Officer
Public Office Rd,
Maraimalai Nagar,
Nagapattinam,
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C.V.KARTHIKEYAN,J.

ssr

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