



W.P(MD)No.333 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.02.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.333 of 2024
and
W.M.P.(MD)No.334 of 2024

G.Kaliraj

... Petitioner

Vs.

1.The District Revenue Officer,
The District Revenue Court,
Virudhunagar,
Virudhunagar District.

2.The Revenue Divisional Officer,
Sattur,
Virudhunagar District.

3.G.Gurusamy Chettiyar

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the respondents 1 and 2 to keep all the revenue proceedings in abeyance until the finalization of the civil proceedings in O.S.No.12 of 2023 on the file of the Sub Court, Sattur and an Appeal in Moo.mu.A6/3093/2022 dated 01.02.2023 filed before the 1st respondent between the parties related to the subject matter of the property in S.No.7/3A and 7/3B at Servaikaranpatti, Vembakottai Taluk, Virudhunagar District.



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For Petitioner : Mr.S.Mahalakshmi

For Respondents : Mr.D.Gandhiraj
Special Government Pleader for R1 & R2

: Mr.M.Thirunavukkarasu for R3

ORDER

Heard both sides.

2. One G.Ayyalusamy herein filed W.P.(MD)No.28132 of 2022 before this Court with the following relief:-

“Prayer: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents 1 & 2 to take action in accordance with law for rectifying the erroneous sub-division of Survey No.7/3 as Survey Nos. 7/3A and 7/3B at Servaikaranpatti, Vembakottai Taluk, Virudhunagar District and cancel the patta in Patta No.91 and 107 and grant patta in accordance with actual enjoyment after conducting thorough enquiry within a time stipulated by this Court”

The Writ Petition was disposed of by me on 08.02.2023 in the following terms:-

“2.Gurusamy Chettiar and Gopalsamy Chettiar had equal share in the petition mentioned properties. It appears that there was an oral partition between them. While the petitioner would claim that as per the division, Gurusamy Chettiar was to enjoy the eastern portion, the private respondents would claim that the northern portion was allotted to them. In other words, there is a divergence as regards the mode of division. It appears that the individual patta was issued in favour of the private respondents way back in the year 1984. Classification had also been done. The petitioner states that these changes were done without notice. The petitioner would also claim that the sub division was erroneously done and that it should be rectified. The petitioner has given a representation in this regard to the first respondent. Obviously, the appeal by the



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petitioner has not been filed in time. The petitioner would contend that limitation would start running from the date of knowledge. Therefore, he has to necessarily file a condone delay petition in the appeal to be filed before the first respondent. It is for the first respondent to take a call in the matter. However, the first respondent will number the petitions, to be filed by the petitioner and after due notice to the respondents, take a call on merits and in accordance with law.”

3. It is stated that without filing any appeal, G.Ayyalusamy filed O.S.No. 12 of 2023 before the Sub Court, Sattur seeking the relief of declaration and permanent injunction. The prayer in this writ petition is that the revenue authorities should keep the revenue proceedings in abeyance until the suit is finalized.

4. I wanted to know as to why the said writ petition came to be filed. The learned counsel appearing for the petitioner pointed out that even though Writ Petition No.28132 of 2023 was disposed of on 08.02.2023, on 01.02.2023, the RDO, Sattur had sent a recommendatory proposal to the DRO, Virudhunagar for restoration of the revenue record in the name of Pethana Chettiyar. The petitioner's counsel states that based on this communication dated 01.02.2023, certain steps are being taken to the prejudice of the petitioner and that led to filing of this writ petition.

5. It is further stated that challenging the said communication dated 01.02.2023, appeal has been filed before the DRO, Virudhunagar. I fail to understand as to how appeal will lie against the proposal dated 01.02.2023. It is after all a mere recommendation. Only against an enforceable order, an



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appeal will lie. Be that as it may, the DRO, Virudhunagar is now seized of the matter. The petitioner can very well place all his objections before the DRO, Virudhunagar. It is well settled that the writ petition cannot be converted into a interlocutory application (*vide AIR 1952 SC 12 (State of Orissa Vs. Madan Gopal Rungta)*). The petitioner as well as the third respondent shall appear before the DRO, Virudhunagar on 26.02.2024 at 03.00 pm. The petitioner can very well bring it to the notice of the DRO about the pendency of the suit and all other aspects that are in his favour. It is for the DRO, Virudhunagar to consider the contentions of both the parties and pass a speaking order. If the speaking order is to the prejudice of the petitioner, the petitioner can always come to this Court again for appropriate relief.

6. Leaving open contentions of both the parties and with the aforesaid direction to the parties as well as the first respondent, the Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

19.02.2024

Index : Yes / No
Internet : Yes/ No
rmi

NOTE: Issue Order Copy on 22.02.2024



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To

1. The District Revenue Officer,
The District Revenue Court,
Virudhunagar,
Virudhunagar District.
2. The Revenue Divisional Officer,
Sattur,
Virudhunagar District.



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G.R.SWAMINATHAN, J.

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