



W.A(MD)Nos.697 and 698 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.04.2024

CORAM :

**THE HONOURABLE MR.JUSTICE R.SURESH KUMAR
and
THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN**

**W.A(MD)Nos.697 and 698 of 2024
and
CMP(MD)Nos.5191 and 5192 of 2024**

A.Ravichandran
A.Kannan

... Appellant in W.A(MD)No.697/2024
... Appellant in W.A(MD)No.698/2024

vs.

1. The District Collector,
Madurai,
Madurai District.

2. The Tahsildar,
Vadipatti Taluk,
Madurai District.

3. The Taluk Surveyor,
Vadipatti Taluk,
Madurai District.

4. The Village Administrative Officer,
Kallanai Village,
Vadipatti Taluk,
Madurai District.

5. K.G.Pandiyan

... Respondents in both appeals



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Prayer : Appeals filed under Clause 15 of the Letters Patent, against the orders dated 22.02.2024 made in W.P(MD)Nos.4199 and 4200 of 2024.

For Appellant : Mr.P.Murugesan
For R1 to R4 : Mr.A.Kannan, Additional Government Pleader

COMMON JUDGMENT

(Judgment of the Court was made by **R.SURESH KUMAR, J.**)

These writ appeals have been directed against the orders passed by the Writ Court, dated 22.02.2024, made in W.P(MD)Nos.4199 and 4200 of 2024.

2. With regard to the property in question, it is the rival claim between the petitioner/appellant and the 5th respondent. It is the claim of the petitioner/appellant that, the property in question belongs to him and his brother one Kannan. However, it is the claim of the 5th respondent that, he purchased the property for a valid sale consideration, by way of a registered sale deed.

3. The said sale deed had been questioned by the petitioner/appellant and seeking a declaration against the said sale deed, the petitioner/appellant



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already approached the Civil Court and filed a civil suit in O.S.No.35 of 2024, on the file of the Additional District Judge at Madurai.

4. In the meanwhile, both Ravichandran and K.G.Pandian filed writ petitions before this Court in W.P(MD)Nos.10210, 12320 and 18404 of 2023, for various reliefs. Those writ petitions were disposed of, by a common order of the learned Judge, dated 31.08.2023, where, ultimately, insofar as the surveying of the land in question, to identify the four boundaries and to lay the boundary stones, direction had been given.

5. Subsequently, the present petitioner/appellant as well as his brother Kannan filed two writ petitions in W.P(MD)Nos.31364 and 31365 of 2023. Both the writ petitions were heard and disposed by a common order of another learned Judge of this Court dated 19.01.2024, where, the learned Judge, after having recorded the stand taken by the Tahsildar that, an enquiry is to be conducted, had directed the revenue authority i.e., Tahsildar, to conduct an enquiry and pass orders.

6. Pursuant to the said order passed by the Writ Court, the Tahsildar after having conducted the enquiry, passed an order on 14.02.2024, whereby,



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the Tahsildar has found that the Writ Court has already directed the revenue authorities to survey the land to identify the four boundaries. Even though in this context, the petitioner/appellant and his brother had filed a civil suit, where, they sought for an interlocutory order, even if that order is passed, that will not control the order passed by the High Court under Article 226 of the Constitution. Therefore, the Tahsildar decided to proceed with the surveying of the land, thereby, the objection raised by the petitioner/appellant and his brother was rejected.

7. The said order dated 14.02.2024, passed by the Tahsildar, was put under challenge in the third round of litigation by the petitioner/appellant in W.P(MD)No.4199 of 2024. While disposing the said writ petition, the learned Judge has observed that, to establish the right or seeking for any prohibitory order, it is for the petitioner/appellant to file necessary interlocutory application in the pending suit and depending upon the decision to be made, the further course of action can be decided.

8. The learned Judge also has observed that giving a direction to survey the land is only to identify the four boundaries and to lay the boundary stones, that does not mean that, any declaration is being made regarding the



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possession and ownership of the property and any dispossession of the parties would be made by passing such an order. Therefore, the learned Judge by making such observation, had disposed the said writ petition, as against which, the present intra-court appeal is directed.

9. Heard Mr.P.Murugesan, learned counsel appearing for the appellant in both the appeals and Mr.A.Kannan, learned Additional Government Pleader appearing for the respondents 1 to 4. In view of the order that is going to be passed in this writ appeal, notice to the 5th respondent is hereby dispensed with.

10. Already, the Writ Court has given a direction to survey the land, as against which, no appeal had been filed. Though attempt has been made seeking a prohibitory order, that was also not considered and in this regard, as directed by the Writ Court in the second round of litigation, the Tahsildar having conducted the enquiry, passed the order dated 14.02.2024 to proceed with the survey.

11. In the meanwhile, the interlocutory application seeking injunction restraining the 5th respondent from interfering with the peaceful possession and



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enjoyment of the property of the petitioner/appellant, since, has been rejected, as against which, it is submitted that the petitioner/appellant is contemplating to file a miscellaneous appeal.

12. Be that as it may, as of now, it is the claim of the 5th respondent with the strength of the sale deed that the property belongs to him. Whether the property belongs to him based on the sale deed or not, has to be decided only by the Civil Court and such a civil forum has already been approached by the petitioner/appellant, where the suit for declaration has been laid.

13. Therefore, unless the Civil Court comes to a conclusion finally, the petitioner/appellant cannot claim ownership of the property. Assuming that physically he is in possession, without admitting the same, it would not preclude the authorities to survey the land, as that is the job of the revenue authorities to survey the land at the instance of any owner of the property, claiming ownership based on the documents.

14. Therefore, the orders already been passed in the first and second round of litigation towards the surveying of the land in question, of course, at the instance of the 5th respondent, since has to be complied with, the order dated 14.02.2024, cannot be said to be suffered with any infirmity.



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15. Therefore, the findings as well as the observation that has been made by the learned Judge in the impugned orders, dated 22.2.2024, also need not be disturbed, but at the same time, the revenue authorities are free to survey the land in question as directed earlier, by the Writ Court as those orders had become final.

16. In view of the afore-stated discussion, we are inclined to dispose of the writ appeals with the following orders:-

(i) That the orders impugned passed by the Writ Court require no interference. Therefore, they are sustained.

(ii) As a result, there shall be a direction to the revenue authorities to survey the land in question as directed earlier, by the Writ Court, in the presence of the petitioner/appellant, his brother as well as the 5th respondent, to whom, separate notices be given.

(iii) It is made clear that this order would not make the petitioner/appellant in a disadvantageous position to project his case before the Civil Court, where his suit already been laid and is pending.

(iv) Insofar as pursuing his civil right, it is open to the appellant to pursue the same in the manner known to law.



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17. With all these observations and directions, the Writ Appeal is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Index : Yes / No
Neutral Citation : Yes / No
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(R.S.K., J.) (G.A.M., J.)
10.04.2024

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