



W.P.(MD) No.11938 of 2017

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.09.2024

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD) No.11938 of 2017

and

W.M.P(MD)Nos.9194 to 9196 & 13724 of 2017

K.Valarmathi

.. Petitioner

Vs.

- 1.The District Collector,
Tiruchirapalli District,
Tiruchirapalli.
- 2.The Tahsildar,
Tiruchirapalli East Taluk,
Tiruchirapalli.
- 3.The Taluk Head Surveyor,
Tiruchirapalli East Taluk,
Tiruchirapalli.
- 4.The Taluk Deputy Inspector of Survey,
Tahsildar Office,
Tiruchirapalli East Taluk,
Tiruchirapalli.
- 5.The Inspector of Police,
Ariyamangalam,
Thanjavur Main Road,
Tiruchirapalli.



W.P.(MD) No.11938 of 2017

6.N.Amutha

7.N.Yogambal

.. Respondents

*(R7 is impleaded vide Court order, dated 19.09.2024 in
W.M.P(MD)No.11517 of 2017)*

Prayer: Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorari, to call for the records of the 2nd respondent, dated 20.06.2016 vide in Na.Ka.No.128/2017 and consequential memo issued by the 4th respondent, dated 21.06.2017 and quash the same as illegal.

For Petitioner : M/s.J.Anandhavalli

For R1 – R5 : Mr.P.Thambidurai
Government Advocate

For R6 : Mr.S.Kanagarajan

For R7 : Mr.Janath Ahmed @ Janarth Kumar

ORDER

Challenging the impugned enquiry notice, the petitioner is before this Court.

2. The facts which has culminated in the filing of the writ petition is set out shortly herein below:



W.P.(MD) No.11938 of 2017

WEB COPY

(i) The petitioner's husband Late.S.Kathiresan had set up a rice mill in the name and style of Thirumalai Modern Rice Mill in a land measuring an extent of 2 acres and 46 cents. The land was purchased in the name of the petitioner, his parents and sisters since the family was a Hindu undivided family then. The purchase was made in 3 plots measuring 1.95 acres, 36 cents and 15 cents respectively. Thereafter, in a family arrangement, the entire land and superstructure of the mill was settled in favour of the petitioner's husband who had availed a huge loan in the year 2006 for replacement of machineries and working capital. After his demise, the petitioner had taken it upon herself to repay the loan. The licenses, taxes etc., in respect of the rice mill has been transferred in the name of the petitioner.

(ii) The 6th respondent who is the sister of the petitioner's husband has filed an application before the 2nd respondent in December 2015 to measure an extent of 6515 sq.ft alleging that it was her land and no notice was issued to the petitioner. Since the petitioner was in possession of the property, she had objected to the same. The 6th respondent therefore filed a writ petition in W.P(MD)No.5082 of 2016 seeking



W.P.(MD) No.11938 of 2017

police protection for the survey of land. Once again, no notice has been issued to the petitioner. The petitioner would submit that she has already filed a suit in O.S.No.1061 of 2016 on the file of District Munsif, Tiruchirappalli seeking permanent injunction restraining the 6th respondent and persons claiming under her from interfering with her peaceful possession and enjoyment of the property and an injunction was also sought and obtained against the respondents 1,2 and 3 restraining them from surveying 'B' schedule property without following the provisions of the Tamil nadu Survey and Boundaries Act. The petitioner sought to implead herself in W.P(MD)No.5082 of 2016. However, the petition was returned stating that the 6th respondent had already took steps to implead her. The impleading application was allowed and the writ petition was ordered directing the 2nd respondent to consider the representation of the petitioner therein and pass orders. Though the petitioner was impleaded, notice was not issued to her.

(iii) Meanwhile, suit in O.S.No.1061 of 2016 was decreed *ex parte* on 24.04.2017. Taking advantage of the order in the writ petition, the 6th



W.P.(MD) No.11938 of 2017

respondent transferred the property in favour of her daughter K.Aarthi on 03.04.2017 pending suit. After the suit was decreed, the said Aarthi in turn had sold the property to the third party, namely Joseph Kennedy on 27.04.2017. The petitioner would submit that despite the above order in the suit, the impugned petition has been filed.

3. When the matter had come up today, it was informed that the following suits are pending: (1) O.S.No.168 of 2017 on the file of III Additional District Judge, Trichy (2) O.S.No.201 of 2018 on the file of the District Court, Trichy.

4. It is needless to state that unless and until the title is declared, the survey cannot be done and both the petitioner as well as the private respondent are parties to the suit. That apart, in an another suit in O.S.No.1061 of 2016, dated 24.04.2017, there is an injunction restraining the official respondents from conducting survey which was not brought to the notice of the Court when orders were passed in W.P(MD)No.5082 of 2016.



W.P.(MD) No.11938 of 2017

WEB COPY

5. In the light of the above, a survey cannot take place till such time as the suits are finally decided. Therefore, the impugned notice, dated 20.06.2016 and consequential memo, dated 21.06.2017 are set aside. It is made clear that the respondents shall not conduct survey till the disposal of the suits.

6. Accordingly, this Writ Petition stands allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

19.09.2024

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

gbg

To

- 1.The District Collector,
Tiruchirapalli District,
Tiruchirapalli.
- 2.The Tahsildar,
Tiruchirapalli East Taluk,
Tiruchirapalli.



W.P.(MD) No.11938 of 2017

WEB COPY

- 3.The Taluk Head Surveyor,
Tiruchirapalli East Taluk,
Tiruchirapalli.
- 4.The Taluk Deputy Inspector of Survey,
Tahsildar Office,
Tiruchirapalli East Taluk,
Tiruchirapalli.
- 5.The Inspector of Police,
Ariyamangalam,
Thanjavur Main Road,
Tiruchirapalli.



WEB COPY



W.P.(MD) No.11938 of 2017

P.T.ASHA, J.

gbg

W.P.(MD) No.11938 of 2017

19.09.2024