



Citation : CDJ 2012 MHC 180

Court : High Court of Judicature at Madras

Case No : O.S.A.Nos. 370 to 374 of 2008 & M.P.No.1 of 20011 ( 5 M.Ps) & O.S.A.No. 197 of 2006 & M.P.No.1 of 2007

Judges : THE HONOURABLE MR. JUSTICE P. JYOTHIMANI & THE HONOURABLE MR. JUSTICE M. DURAISWAMY

Parties : Ist Petitioner Versus Ist Respondent

Appearing Advocates : For the Appearing Parties: -----

Date of Judgment : 09-01-2012

Head Note :

Subject

Judgment :

### **P. JYOTHIMANI, J**

1. The subject matter of the properties in the above appeals originally belonged to Sivagiri Jamin and all the properties are governed by the Madras Court of Wards Act, 1902. After the introduction of the Estate Abolition Act, 1948, the properties of Sivagiri Estate vested with the Government. Now, after the Estate Abolition Act, some properties of the Sivagiri Estate were left out and the residuary properties are alleged to continue to be under the control of the Madras Court of Wards Act. The appellant is now claiming under an unregistered will dated 16.5.1992 executed by Jamindari of Sivagiri Prasanna Vinayaga Guhasankara V.S. Vargunarama Pandiya Chinathambiyar alias Dakshina Prasad in his favour.

2. Learned counsel appearing for the appellant submitted that now, all the properties, which belonged to Sivagiri Estate, would vest with the Government. The appellant had obtained letters of Administration from this court on 7.9.2007.

3. It is brought to the notice of this court that based on the letters of Administration, the appellant and also the learned counsel appearing on behalf of the appellant Mr.V.Chockalingam, as a Power Agent of the appellant, alienated several Sivagiri Estate properties. In these circumstances, we are of the view that in order to protect the interest of the State in recovering the properties from the hands of the third parties, it is just and proper to order notice to the Joint Director, Central Bureau of Investigation. Mr.N.Chandrasekaran, learned Special Public Prosecutor appearing for the C.B.I. takes notice on behalf of Joint Director, Central Bureau of Investigation.

4. All the respective learned counsels appearing for the appellant as well as the respondents are directed to submit the copies of the papers filed by them before this court to Mr.N.Chandrasekaran,

learned Special Public Prosecutor appearing for the C.B.I. so as to enable him to get appropriate instructions from the Department.

5. The issue relates to revocation of letters of Administration granted by this court at the instance of the respondents. The appellant, who has filed the present appeals against the revocation order, claimed himself to be the holder of right under a Will stated to have been executed by the letters of the Jamindari of Sivagiri Prasanna Vinayaga Guhasankara V.S. Vargunarama Pandiya Chinathambiyar alias Dakshina Prasad, dated 16.5.1992, which is unregistered and stated to have been executed at Rajapalayam and admittedly, the testator died within 9 days thereafter namely, on 25.5.1992. Even though it is contended that the said testator was sick and the properties are governed by the Madras Court of Wards Act, 1902, a reference to the Will does not disclose anything on that. On the other hand, the annexure to the Will contains the properties without survey numbers. The properties are situated throughout India including some of the prime properties within the city like, Cosmopolitan Club, Madras Club, Pachayappa College, Old Law College property, etc. It is seen that after obtaining the letters of Administration from this court on 7.9.2007, the learned counsel appearing for the appellant Mr.V.Chockalingam has issued notice on 10.09.2007 wherein, he has narrated some 104 items of properties stating as if they also form part of the letters of Administration. However, many of those properties do not find place in the letters of Administration.

6. It is also brought to the notice of this court that after obtaining the letters of Administration and before it was cancelled by this court, certain transactions have taken place by alienating the properties in which the learned counsel appearing for the appellant himself acted as the Power Agent. A reference to the document also shows that the address of the learned counsel appearing for the appellant is stated to be the address of the last legal heir of Jamindari, who is called Palayam of Southern India. Therefore, we are prima facie satisfied that there is absolutely no reason to interfere with the order of the learned Judge. However, by allowing the TOS to go ahead, which may take some time, there is a possibility of some other properties, if they are available belonging to Sivagiri Estate, are likely to be muddled with third parties. In the circumstances that all the properties of Sivagiri Estate have been vested with the Government, especially after the Estate Abolition Act and the dispute is relating to some of the residuary properties stated to continue to be under the control of Madras Court of Wards Act, 1902, we are of the view that all further proceedings in the TOS are to be stayed till the CBI's report is obtained so as to enable this court to pass further orders.

7. Even though, learned counsel for the appellant would submit that the original letters of Administration has been sent to Switzerland through Government of India or the State Government, there is nothing on record to substantiate the same. There is no direction from this court to send the letters of Administration to Switzerland and further, no properties are forming part of the annexure to the letters of Administration. In spite of repeated direction from this court, the learned counsel for the appellant has not produced the same except by saying that the same is in Swiss Bank. The learned counsel appearing for the appellant, who has received the original letters of Administration from this court, shall return the same to the Registry on or before 23.01.2012, failing which, further order will be passed. Any transaction made based on the letters of Administration shall not be valid in the eye of law.

8. It is brought to the notice of this court that there are several suits pending before various civil courts through out the State in respect of Sivagiri Estate properties. It is also brought to the notice of this court that learned counsel appearing on behalf of the appellant, Mr.V.Chockalingam, had also filed suit as Power Agent of the appellant in various civil courts in the State. Since we are inclined to order thorough enquiry by the Central Bureau of Investigation, we are staying all further proceedings in the said suits in respect of Sivagiri Estate properties through out the State until further orders.

9. In view of the above, we are of the considered view that any suit filed in respect of various properties belonging to the Sivagiri Estate shall not be alienated further. The alienation of any

properties in the name of Sivagiri Estate by any person shall not be effected until further orders of this court and there shall be an order of interim injunction in that regard.

10. The parties shall publish the above factum of order of injunction in "The Hindu" and Daily Thandhi" receptively circulating in the State.

11. Post on 23.01.2012.

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