

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.8.2015

CORAM

THE HON'BLE MR.JUSTICE M.JAICHANDREN

Writ Petition No.30557 of 2012

R.SAKKARAI

[PETITIONER]

Vs

1 THE DISTRICT COLLECTOR
KANCHEEPURAM DISTRICT
AT KANCHEEPURAM.

2 THE TAHSILDAR
MADURANTHAGAM TALUK
KANCHEEPURAM DISTRICT.

3 THE BLOCK DEVELOPMENT OFFICER
MADURANTHAGAM TALUK
KANCHEEPURAM DISTRICT.

4 THE PRESIDENT
SURAI VILLAGE PANCHAYAT
SURAI VILLAGE
MADURANTHAGAM TALUK
KANCHEEPURAM DISTRICT.

[RESPONDENTS]

This writ petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus forbearing the respondents from laying any road in the petitioner's patta land situated at Survey No.9/1H to an extent of 0.13.5 Ares (13.5 cents) Puzhdivakkam Village and Post, Maduranthagam Taluk, Kancheepuram District except due process of law.

For petitioner : Mr.M.V.Muralidaran

For respondents : Mr.R.Ravichandran
AGP for R1 to R3
Mr.P.Gurunathan for R4

O R D E R

Heard the learned counsels appearing for the parties concerned.

2. This writ petition has been filed praying that this Court may be pleased to issue a writ of Mandamus forbearing the respondents from laying a road in the patta land said to be belonging to the petitioner, in survey No.9/1H, to an extent of 13.5 cents, in Puzhidiyakkam village, Madurandagam Taluk, Kancheepuram District, without following the procedures established by law.

3. The petitioner has stated that the land, in survey No.9/1H, to an extent of 13.5 cents, in Puzhidiyakkam village, Madurandagam Taluk, Kancheepuram District, is an ancestral property. The second respondent had issued a Patta (Patta No.68) in respect of the said land, in the name of the petitioner. Thus, it is clear that the petitioner is in absolute possession and enjoyment of the land in question.

4. It has also been stated that the petitioner had been paying the tax assessed by the fourth respondent for which the receipts had been issued. Certain documents, including patta and chitta in respect of the said property, stand in the name of the petitioner. While so, the fourth respondent, who is the President of Surai village panchayat, had attempted to lay a road in the property in question, which is in the name of the petitioner. In such circumstances, the petitioner has approached this Court by filing the present writ petition, under Article 226 of the Constitution of India.

5. In the counter affidavit filed on behalf of the fourth respondent, it has been stated that the petitioner is not the owner of the property in question, in Puzhidiyakkam village, Madurandagam Taluk, Kancheepuram District. The actual owner of the property in question, represented by their power agent, namely, Kotteeswaran, Chitra Vijayakumar, had executed a gift deed in the name of the fourth respondent, on 23.11.2012. The said gift deed had been registered at the office of the Sub Register, Maduranthagam, as document No.7357 of 2012. The property in question is in the name of the 23 persons, namely, Kajavaradan, Selvi, Elumalai, Sugantha, Gomathi, Leelavathi, Sivakumar, Kannayeram, Pappammal, Krishnaveni, Meena, Sambasivam, Kanthimathi, Senbagavalli, Manickam, Subramani, Kasthuri, Soundari, Nalla Muthu, Kesavan, Kukkan, Ramanuhammal, Paramasivam and the gift deed had been registered by them through their power agents.

6. It has also been stated that the road, which had already been laid, in survey No.9/1H, to an extent of 13.5 cents in Puzhidiyakkam village, Madurandagam Taluk, Kancheepuram District, is leading to the

burial ground and it is used by the public, on a regular basis. As such, the petitioner cannot claim any right in the property in question, as prayed for by him, in the present writ petition.

7. In view of the submissions made by the learned counsels appearing for the petitioner, as well as the respondents and on a perusal of the records available, this Court is of the considered view that the relief prayed for by the petitioner in the present writ petition cannot be granted, as it has been stated by the respondents that the petitioner is not the owner of the property, in survey No.9/1H, to an extent of 13.5 cents, in Puzhdivakkam village, Madurandagam Taluk, Kancheepuram District. It has also been stated that a gift deed had been registered in respect of the land in question in favour of the fourth respondent. A road, which had already been laid in the property in question, is leading to the burial ground of the village concerned. In such circumstances, this Court finds it appropriate to dismiss the writ petition, as it is devoid of merits. Hence, this writ petition stands dismissed. However, it goes without saying that it may be open to the petitioner to seek his relief before the appropriate forum, if so advised, in the manner known to law. No costs. Connected M.P.No.1 of 2012 is closed.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

lan
To:

- 1 THE DISTRICT COLLECTOR
KANCHEEPURAM DISTRICT
AT KANCHEEPURAM.
- 2 THE TAHSILDAR
MADURANTHAGAM TALUK
KANCHEEPURAM DISTRICT.
- 3 THE BLOCK DEVELOPMENT OFFICER
MADURANTHAGAM TALUK
KANCHEEPURAM DISTRICT

+1cc to Mr.M.v. Muralidaran, Advocate, S.R.No.45231
+1cc to the Government Pleader, S.R.No.45395

VGP(CO)
EU(28/09/2015)

W.P.No.30557 of 201225.8.2015