

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23-11-2015

CORAM :

THE HON'BLE MR.JUSTICE SATISH K.AGNIHOTRI
AND
THE HON'BLE DR.JUSTICE P.DEVADASS

Writ Petition No.27952 of 2015
and
M.P.No.1 of 2015

A.Tholkappiyan

... Petitioner

Vs.

1. The District Collector,
Villupuram District,
Villupuram.
 2. The Revenue Divisional Officer,
Thirukovilur,
Villupuram District.
 3. The Block Development Officer,
Thirunavalur Panchayat Union,
Ulundurpet Taluk,
Villupuram District.
 4. The Tahsildar,
Ulundurpet Taluk,
Villupuram District.
 5. The Director of Elementary Education,
Chennai-600 006.
- (R-5 is suo-motu impleaded as per order
dated 12.10.2015 by S.K.A.,J. and M.V.,J.
In WP 27952 of 2015}

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, forbearing the respondents from interfering with the land and school building in Survey No.621/5 (old Survey No.277), Kalamaruthur Village, Ulundurpet Taluk, Villupuram District except by due process of law and to direct the second respondent to consider the representation for grant of patta in favour of the petitioner.

For Petitioner : Mr.G.Sankaran
For Respondents-1,2,4 & 5 : Mr.N.Sakthivel,
Government Advocate
For Respondent-3 : Mrs.Lessi Saravanan for
Mr.Durai Solaimalai

O R D E R
(ORDER OF THE COURT WAS MADE BY DR.P.DEVADASS, J.)

The petitioner came forward with this writ petition for the issuance of a Writ of Mandamus restraining the respondents from interfering with the land and school building comprised in Survey No.621/5 (old Survey No.277) situate in Kalamaruthur Village, Ulundurpet Taluk, Villupuram District except by due process of law and also to direct the second respondent to consider his representation for grant of patta.

2. In nutshell, the factual allegations culled out from the affidavit of the writ petitioner runs as under :

The writ petitioner got lease of the land comprised in Survey No.621/5 (old Survey No.277) situate in Kalamaruthur Village, Ulundurpet Taluk, Villupuram District from one Krishnamoorthy. Subsequently, on 24.3.1999, he purchased the entire land comprised in the said Survey Number from Krishnamoorthy, Balaji and Raghunathan through Sale Deeds dated 24.3.1999 and 7.2.2000. He has demolished the existing building and constructed a new school building. He had obtained permission from Panchayat Union, Health Department and Education Department. However, the respondents attempts to evict him from the land.

3. The third respondent, namely, the Block Development Officer, Thirunavalur Panchayat Union filed counter alleging that the said land is a Government land. The writ petitioner has no valid documents to stake ownership to the land. In the Revenue Records, the said land has been classified as Chathiram. It belongs to Kalamaruthur Village Panchayat. Petitioner claims the land based on certain false documents. He has no patta, no valid title deeds. In order to circumvent the action taken by the Panchayat Union, he has filed this writ petition.

4. The fifth respondent, namely, the Director of Elementary Education, Chennai filed counter also reiterating the said stand of the third respondent.

5. The learned counsel for the petitioner submitted that the writ petitioner is in possession of the land for a long time, he had purchased the land through title deeds from its previous owners and he has very many records to support his claim.

6. The learned counsel for the third respondent has contended that the said land is a Chathiram. In the Adangal, 'A' Register and other Revenue Records, it has been classified as Government Chathiram, it is a Panchayat property and the petitioner wants to grab this Government property.

7. The learned counsel for third respondent also further submitted that there is disputed factual matrix and that cannot be gone into in the extraordinary jurisdiction exercised by this Court under Article 226, Constitution of India and the petitioner has to approach the competent Civil Forum to establish his right by producing the relevant legal evidence.

8. The learned Government Advocate appearing for the respondents 1, 2, 4 and 5 also reiterated the said submissions.

9. We have anxiously considered the rival submissions and perused the materials on record.

10. By the said submissions of both and by the consideration of their affidavit, it is seen that the petitioner claims right to property comprised in Survey No.621/5 (old Survey No.277) situate in Kalamaruthur Village in Ulundurpet Taluk in Villupuram District. He says that he has title deeds and other documents in support of his claim. However, the Government contends that out and out it is a Government property and he wants to grab it on the strength of some false documents.

11. This Court exercises its extraordinary jurisdiction under Article 226, Constitution of India. It cannot be converted as jurisdiction exercised by a Civil Court. This Court is not a place for resolving disputed factual matrix and appreciation of evidence when especially such matters are required to be resolved by a competent Civil Forum on appreciation of evidence (See ABL International Ltd and Another vs. Export Credit Guarantee Corporation of India Ltd and Others {(2004) 3 SCC 533}, Montford Brothers of St. Gabriel and Another vs. United India Insurance and Another {AIR 2014 SC 1550} and State of Kerala and Others vs. M.K.Jose {(2015) 9 SCC 433}.

12. Now in the case before us, there is controversy as to petitioner's ownership to the property in question, which is stated to be a Government property by the Official respondents.

This matter requires consideration of oral and documentary evidence. Such right to property has to be adjudicated upon relevant legal evidence adduced before a competent Civil Forum and that cannot be done by a Writ Court under Article 226, Constitution of India.

13. In view of the foregoing, the petitioner shall approach the competent Civil Forum to establish his right to the property comprised in Survey No.621/5 (old Survey No.277) situate in Kalamaruthur Village in Thirunavalur Union in Ulundurpet Taluk in Villupuram District.

14. Accordingly, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

Svn
To

1. The District Collector,
Villupuram District,
Villupuram.
2. The Revenue Divisional Officer,
Thirukovilur, Villupuram District.
3. The Block Development Officer,
Thirunavalur Panchayat Union,
Ulundurpet Taluk, Villupuram District.
4. The Tahsildar,
Ulundurpet Taluk,
Villupuram District.
5. The Director of Elementary Education,
Chennai-600 006.

+1cc to Mr.G.Sankaran, Advocate, S.R.No.64038
+1cc to Mr.Durai Solaimalai, Advocate, S.R.No.64062
+1cc to the Government Pleader, S.R.No.63563

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and M.P.No.1 of 2015

CA(CO)
CA(04/02/2016)