

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.01.2015

CORAM

THE HONOURABLE MR.JUSTICE N.PAUL VASANTHAKUMAR
AND
THE HONOURABLE MR.JUSTICE P.R.SHIVAKUMAR

W.A.No.2400 of 2012

and

M.P.No.1 of 2012 & M.P.No.1 of 2013

Chembarambakkam Minor Panchayat,
rep. by its President,
Chembarambakkam,
Tiruvallore District. Appellant

Vs.

1.T.V.Amshalingam
2.The Block Development Officer/Commissioner,
Poonamallee Panchayat Union,
Poonamallee,
Tiruvallore District.
3.The District Collector,
Tiruvallore District,
Tiruvallore.
4.The Tahsildar,
Poonamallee Taluk,
Tiruvallore District. Respondents
(Respondents 3 and 4 impleaded as
per order dt. 16.4.2014 in M.P.No.1 of 2014)

Writ Appeal is preferred under Clause 15 of the Letters Patent against the order dated 23.12.2011 made in W.P.No.6915 of 2002.W.P.No.6915 of 2002 Petition filed under Article 226 of the Constitution of India praying this Hon'ble Court to issue a writ of Mandamus forbearing the respondents or anybody claiming through the respondents from anyway interfering with peaceful possession and enjoyment of the lands of the petitioner comprised in Survey Nos.146/7, 146/16, 236/1, 236/2C, 236/2D, 236/2E and 236/2F situated in Chembarambakkam Village, Poonamallee Taluk, Tiruvallore District without due process of law, to form or attempt to form a pathway to the grave yard situated in S.No.271/2 in Chembarambakkam Village, Poonamallee Taluk, Tiruvallore District.

For Appellant : Mr.R.Bharath Kumar
For Respondents : Mr.N.S.Nandakumar for R1

Mrs.A.Sri Jayanthi
Spl. Government Pleader for R2

Mr.R.Ravichandran
Addl. Govt. Pleader for R3 & R4

JUDGMENT

(Delivered by N.PAUL VASANTHAKUMAR,J)

Heard Mr.R.Bharath Kumar, learned counsel appearing for the appellant and Mr.N.S.Nandakumar, learned counsel appearing for the 1st respondent, Mrs.A.Shrijayanthi, learned Special Government Pleader appearing for the 2nd respondent and Mr.R.Ravichandran, learned Additional Government Pleader appearing for the respondents 3 and 4.

2. This writ appeal is filed against the order made in W.P.No.6915 of 2002, dated 23.12.2011, wherein the 1st respondent has prayed for issuance of writ of mandamus forbearing the appellant and the 2nd respondent herein from in any way interfering with the peaceful possession and enjoyment of the lands of the 1st respondent comprised in Survey Nos.146/7, 146/16, 236/1, 236/2C, 236/2D, 236/2E and 236/2F situated in Chembarambakkam village, Poonamallee Taluk, Tiruvellore District without due process of law, to form or attempt to form a pathway to the grave yard situated in Survey No.271/2 in Chembarambakkam village, Poonamallee Taluk, Tiruvellore District. The brothers of 1st respondent have also filed W.P.Nos.6916 and 6917 of 2002 for the same prayer for their lands in Survey Nos.146/5, 146/6 and 236/5 respectively.

3. The case of the 1st respondent before the learned single Judge was that the 1st respondent was the absolute owner of the property and was in possession and enjoyment of the same and he was in possession of documents in title to establish his ownership. Further case of 1st respondent was that the appellant was trying to form a road in the property of the 1st respondent and his brothers, being an approach road for the grave yard, which was situated in Survey No.271/1. Hence, they have filed the writ petitions with the above said prayer.

4. All three writ petitions were disposed of by the learned single Judge by common order dated 23.12.2011, wherein the learned single Judge granted liberty to the appellant and the 2nd respondent herein not to interfere with the possession and enjoyment of the property of the 1st respondent as well as the property of the brothers of the 1st respondent stated above, without following due process of law.

5. It is also the fact that the respondents 2 to 4, namely, the Block Development Officer/Commissioner, Poonamallee Panchayat Union, the District Collector, Tiruvallore District and the Tahsildar, Poonamallee Taluk have accepted the said order of the learned single Judge. The order of the learned single Judge is no way affecting the right of the appellant to evict the private respondent from the property, if they are not having any right over the same. In such view of the matter, no ground is made out to interfere with the order of the learned single Judge.

6. In the result, the writ appeal is dismissed. No costs. Consequently, M.P.No.1 of 2012 and M.P.No.1 of 2013 are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

- 1.The Block Development Officer/Commissioner,
Poonamallee Panchayat Union,
Poonamallee,
Tiruvallore District.
- 2.The District Collector,
Tiruvallore District,
Tiruvallore.
- 3.The Tahsildar,
Poonamallee Taluk,
Tiruvallore District.

+ 1 cc to Mr.R. Bharthkumar, Advocate SR.1348
+ 1 cc to Mr.N.S.Nandakumar, Advocate Sr.1077

SV(CO)
Eu 22.1.15

W.A.No.2400 of 2012

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