

In the High Court of Judicature at Madras

Dated:30-10-2015

Coram:

The Hon'ble Mr.Justice M.Jaichandren

W.P. No.33775 of 2012

and

M.P.No.1 of 2012

1. K.MG
2. C.Ekambaram
3. V.Vijayakumar
4. S.Prandaman
5. K.Prabu

.. Petitioners.

-Versus-

1. The District Collector,
Tiruvallur District,
Tiruvallur.

2. The Revenue Divisional Officer,
Ponneri Division,
Ponneri, Tiruvallur District.

3. The Tahsildar,
Gummidipoondi Taluk,
Gummidipoondi,
Tiruvallur District.

4. M.Thangavel
(R4-Impleaded as per order
dated 20.12.2012, by NPVJ in
M.P.No.2 of 2012 in W.P.No.33775 of 2012)

.. Respondents.

Prayer: Writ Petition is filed to issue a Writ of Mandamus, forbearing the respondents from laying road in the petitioners properties in Survey Nos. 432/49, 432/48, 432/51, 432/50, 432/47 and 432/54 of N.M.Kandigai Village, Sathyavedu Post, Gummidipoondi Taluk, Tiruvallur District, except due process of law.

For petitioners : Mr.M.V.Muralidaran

For respondents : Mr.R.Ravichandran, AGP
(R1 to R3)
Mr.V.Ramana Reddy (R4)

ORDER

Heard the learned counsels appearing on behalf of the parties concerned.

2. This Writ Petition has been filed praying that this Court may be pleased to issue a Writ of Mandamus, to forbear the respondents from laying a road in the petitioners properties, in Survey Nos. 432/49, 432/48, 432/51, 432/50, 432/47 and 432/54 of N.M.Kandigai Village, Sathyavedu Post, Gummidipoondi Taluk, Tiruvallur District, except under due process of law.

3. The main contention of the learned counsel appearing on behalf of the petitioners is that the respondents 1 to 3 are laying a road through the properties belonging to the petitioners. Even though the petitioners are in possession and enjoyment of the lands in question, for over 100 years, the respondents 1 to 3 are acting at the behest of the fourth respondent, who has been impleaded as a party in the present Writ Petition. In such circumstances, the petitioners have preferred the present Writ Petition before this Court, under Article 226 of the Constitution of India.

4. The learned counsel appearing on behalf of the fourth respondent had submitted that the second respondent had issued summons to the fourth respondent and the petitioners herein to appear for an enquiry, with regard to the possession and enjoyment of the lands in question. However, the petitioners have failed to appear in the enquiry. Further, the petitioners had preferred a suit, in O.S.No.214 of 2012, against the fourth respondent, on the file of the District Munsif Court, Ponneri, which is pending disposal, praying for a permanent injunction. While so, the petitioners had moved this court, by filing the present Writ Petition, under Article 226 of the Constitution of India, and had obtained an order of status quo from this Court. The fourth respondent and his family members had been prevented from using his lands, as the petitioners had prevented the use of the approach road leading to his lands. As the petitioners did not have any right, in respect of the lands in question, the present Writ Petition filed by them is not maintainable.

5. The learned Additional Government Pleader appearing on behalf of the third respondent had submitted that it is for the petitioners to seek the relief, if any, before the appropriate civil forum, to establish their rights, in accordance with the relevant provisions of law. It has also been stated that the petitioners had preferred a civil suit, in O.S.No.214 of 2012, on the file of the District Munsif Court, Ponneri, against the fourth respondent. While so, the present Writ Petition is not maintainable.

6. In view of the submissions made by the learned counsels appearing on behalf of the parties concerned and on a perusal of the records available, it is clear that certain disputed questions of fact had been raised in the present Writ Petition. The petitioners had claimed that they are the owners of the lands in question and that they are in possession and enjoyment of the same, for over 100 years. While so, the fourth respondent had also made certain claims stating that the lands in question belong to him and that the petitioners are interfering with the use of the lands, by blocking the access road leading to the said lands. It is also noted that the petitioners had filed a civil suit against the fourth respondent, in O.S.No.214 of 2012, on the file of the District Munsif Court, Ponneri, praying for a decree of permanent injunction. While so, it is not for this Court to go into the disputed questions of fact relating to the possession of the lands in question, in the present Writ Petition filed by the petitioners. It is for the petitioners to establish their rights, if any, before the civil forum, in the manner known to law. As such, the present Writ Petition is not maintainable. Hence, the Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed. csh

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

1. The District Collector,
Tiruvallur District, Tiruvallur.
2. The Revenue Divisional Officer,
Ponneri Division, Ponneri, Tiruvallur District.
3. The Tahsildar, Gummidipoondi Taluk,
Gummidipoondi, Tiruvallur District.

- + 1 cc to The Govt.Pleader, Sr 59903.
+ 1 cc to Mr.M.V.Muralidaran, Advocate Sr 59431.
+ 1 cc to Mr.V.Ramana Reddy, AdvocateSr 59587.

PUR/CO
KR/16/12

W.P. No.33775 of 2012