

In the High Court of Judicature at Madras

Dated: 25.8.2015

Coram:

The Hon'ble Mr. Justice M. Jaichandren

Writ Petition No. 35059 of 2012

P. Natarajan .. Petitioner

vs.

1. The Chief Secretary,
Govt. of Tamil Nadu,
Fort St. George, Chennai.

2. The Collector of Thiruvallur,
Thiruvallur Dist.

3. The District Rural Development Officer,
Thiruvallur.

4. The Commissioner,
B.D. Office,
Pallipattu, Thiruvallur Dist.

5. The Tahsildar,
Pallipattu, Thiruvallur Dist.

... Respondents

Prayer: Petition is filed under Article 226 of the Constitution of India praying to issue a writ of mandamus, directing the respondents to handover the trespassed land of 0.73 cents in S.No.111/2, situated in Kolathur village, Pallipet Taluk, Thiruvallur District, to the petitioner.

For petitioner : Mr. G. Kathirvelu

For respondents : Mr. R. Ravichandran

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 direct the respondents to handover the trespassed land of an extent of 0.73 cents, in S.No.111/2, situated in Kolathur village, Pallipet Taluk, Thiruvallur District, to the petitioner.

3. According to the petitioner, the punja land bearing Survey No.111/2, measuring an extent of 1.81 cents, belongs to him. He is entitled to 1/4th of the undivided share, in S.No.111/2 and that the patta for the entire extent of the land, in S.No.111/2, has been issued in the name of the petitioner. The land in question is in the joint possession and enjoyment of the petitioner, along with the co-owners, who are his brothers.

4. The petitioner has stated that the respondents had laid a road in the land belonging to the petitioner, in S.No.111/2, without the prior permission of the owners of the said land and without acquiring the land in question, by following the procedures established by law. Hence, the present Writ Petition.

5. A counter affidavit had been filed on behalf of the respondents, denying the claims made by the petitioner in the affidavit filed in support of the Writ Petition. It has been stated that, as per the Settlement made in the year, 1962, there had been a channel, 18 feet in width and 375 feet in length, carrying water on the western side of the property said to be belonging to the petitioner, in S.No.111/2. It has been stated that the channel had been used by the public. It was a gravel road during the year 1998-1999 and it had been converted into a metal road, during the year 2004-2005, as per the Report submitted by Panchayat Union Commissioner. It has been further stated that a huge amount of money has been spent in the laying of the road for the use of the public. It is also stated that the petitioner has no right to enjoy the land in question, as it has been used for a public purpose, from the year, 1962. Even from the Revenue records, it would be noted that the land is a road, 18 feet in width and 375 feet in length.

6. The learned counsel appearing on behalf of the respondents had further submitted that the Tahsildar, Pallipattu, the 5th respondent herein, had issued proceedings, dated 1.7.2010, in Na.Ka.2369/2010/A2, denying the claims made by the petitioner. He had further submitted that the petitioner has not challenged the said proceedings issued by the 5th respondent, till date.

7. 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, this Court is of the considered view that a number of disputed issues had arisen, with regard to the ownership of the land, in question, in S.No.111/2, in Kolathur village, Pallipet Taluk, Thiruvallur District. It has also been stated by the learned counsel appearing on behalf of the respondents that the channel, which was on the western side of S.No.111/2 had been used as a road, for the use of the public, from the year, 1962, and that there is no encroachment in the said land, as alleged by the petitioner.

8. Even though the learned counsel for the petitioner had submitted that the channel in question is still in existence, in S.No.110, and not on the western side of S.No.111/2, as claimed by the respondents, the said submission of the petitioner has been denied by the learned counsel appearing on behalf of the respondents.

9. In view of the fact that there are a number of disputed facts involved in the matter, this Court is of the considered view that it is for the petitioner to establish his claims before the appropriate Civil forum, if he is so advised, in the manner known to law. In such circumstances, this Court is of the view that the reliefs prayed for, by the petitioner, in the present Writ Petition, cannot be granted. Hence, the Writ Petition stands dismissed. M.P.No.1 of 2012 is closed. No costs.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

gs.

To

- 1.The Chief Secretary,
Govt. of Tamil Nadu,
Fort St. George, Chennai.
- 2.The Collector of Thiruvallur,
Thiruvallur Dist.
- 3.The District Rural Development Officer,
Thiruvallur.
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B.D. Office,
Pallipattu, Thiruvallur Dist.
- 5.The Tahsildar,
Pallipattu, Thiruvallur Dist.

2 ccs to Mr.G. Kathirvelu, Advocate, Sr. 45097
1 cc to Government Pleader, SR. 45396

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BVR (CO)
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