

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 04.10.2016

CORAM

The Honourable MR. JUSTICE N.KIRUBAKARAN

W.P. No. 35095 of 2016

1. Mrs.D.Rajamma
2. Smt.Subhasshini Parthasarathy .. Petitioners

Vs

1. The Secretary to Government,
Rural Development and Local Administration,
Fort St. George, Chennai-9.
2 The District Collector,
Coimbatore District,
Coimbatore-641 001.
3 The Commissioner,
Coimbatore City Corporation,
Coimbatore-641 001.
4 The Executive Officer,
Vadavelli Panchayath,
Coimbatore-645 001
5 Mr.V.Jayaraman
6 Curio Garden Avenue Residents
Welfare Society, Vadavelli,
Coimbatore Rep. by its President .. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the respondents 1 to 4 to deliver the land measuring 1 acre in Survey No. 216/1A and 216/1B of Vadavelli Village, Coimbatore Taluk and District, after payment of adequate compensation for the use of the land from June 2007 to till the date of Handing over possession of the land to the petitioners.

For Petitioners : Mr.T.Thiyagarajan

For Respondents 1 & 2 : Mr.T.M.Pappiah
Special Government Pleader

For 3rd Respondent : Mr.S.Saravanan
For 4th Respondent : Ms.M.Jayasree
Government Advocate

O R D E R

The petitioners have come up before this court seeking Writ of Mandamus directing the respondents to deliver the land measuring one acre comprised in Survey Nos.216/1A and 216/1B of Vadavelli Village, Coimbatore Taluk after payment of adequate compensation for the use of their land from the year 2007 till date.

2. The case of the petitioners is that Mr.G.Devarajulu, husband of the first petitioner and father of the second petitioner, purchased an extent of 1 acre of land in Survey Nos.216/1A, 216/1B of Vadavelli Village, Coimbatore Taluk, for the purpose of establishing a school. One Mr.K.V.Krishnaraj has helped for purchase of the land. The 1st petitioner was the owner of 50 cents comprised in Survey No.216/1B having purchased the same through sale deed dated 16.02.1987. Similarly, the 2nd petitioner's father purchased another extent of 50 cents, comprised in Survey No.216/A through sale deed dated 16.02.1987 and they were in possession of the property. Subsequently, the said Devarajulu died after executing a Will dated 08.04.1999.

3. One V.Jayaram, brother of K.Krishnaraj, promoted a layout known as "CURIO GARDEN AVENUE" with which neither the petitioners nor the said Devarajulu had any connection. The layouts promoted by V.Jayaram are adjacent to the petitioners' land comprised in Survey Nos.216/1A and 216/1B. The layout was sanctioned by the Deputy Director of Town and Country Planning in Ref.No.LP/R(CPN) No.325/87. However, without the knowledge of the petitioners, their lands were included in the layout. The said lands were already plotted out by fraud and forgery. The petitioners received a communication from the 4th respondent on 09.06.1998 directing the petitioners to handover the possession of the land in Survey No.216/1 part and the same was suitably replied on 25.06.1998.

4. According to the petitioners, they have not handed over or parted with the land in favour of the 4th respondent and even the patta dated 31.01.2009 stands in the petitioners name. When the petitioners visited the property in the last week of February 2014, the land was converted as children park area. Notices dated 08.03.2014 and 16.04.2014 were sent by the petitioner to the 4th respondent and till date, no reply has been

received. According to the petitioners, the property is in illegal possession of the 4th respondent as the petitioners or the said Devarajulu never handed over the possession as they are owners of the property.

5. Heard Mr.T.Thiyagarajan, learned Counsel appearing for the petitioners, Mr.T.M.Pappiah, learned Special Government Pleader, who took notice on behalf of the respondents 1 & 2, Mr.S.Saravanan, learned counsel who took notice on behalf of the 3rd respondent and Ms.M.Jayasree, learned Government Advocate, who took notice on behalf of the 4th respondent.

6. A perusal of the record would show that the layout in favour of V.Jayaram was approved as early as 1987 in Ref.No.LP/R (CPN) No.325/87. Only based on the approval, the notice was issued to the petitioners by the 4th respondent on 09.06.1998 to handover possession. Though the petitioners have given reply on 25.06.1998, they should have been vigilant enough to see that their rights are protected by initiating proceedings. They kept quiet without initiating any proceedings even after coming to know about the interest of the 4th respondent.

7. Only when the petitioners visited the property in February 2014, they said to have found that their land was converted as "Children Park Area". That itself would go to show that the petitioners have got no connection with the property even though they claim that they are the owners of the property. It is trite law that if anybody is in possession of the property for more than twelve (12) years with the knowledge of the owner, they are deemed to have acquired title by virtue of adverse possession. Even after knowing the claim in the year 1998, as proved by communication of the 4th respondent dated 09.06.1998, the petitioners have not raised their little finger for the past eighteen (18) years.

8. It is unbelievable to state that the petitioners land was converted as 'Children Park Area'. The photographs produced before this court would show that the Children Park Area was opened as early as 27.06.2007. For the past nine years, the park has been put in use. All the above facts would show that the petitioners have got no right over the property. Assuming for a moment, that the petitioners have got right over the property, it is open to them to approach the Civil Court, provided if law of limitation permits. The Writ Petition is nothing but abuse of process of law. Though heavy cost has slapped on the petitioners, due to self-restraint, this court is not awarding any cost.

9. In the result, the writ petition is dismissed. No costs.

jv/rgr

-sd-

Assistant Registrar

//True copy//

Sub Assistant Registrar

To

1. The Secretary to Government,
Rural Development and Local Administration,
Fort St. George, Chennai-9.
- 2 The District Collector,
Coimbatore District,
Coimbatore-641 001.
- 3 The Commissioner,
Coimbatore City Corporation,
Coimbatore-641 001.
- 4 The Executive Officer,
Vadavelli Panchayath,
Coimbatore-645 001.

+1C.C. to MR.T.THIYAGARAJAN Advocate SR.NO.57073

+1 C.C. t The Government Pleader High Court, Madras
-104.

W.P. 35095 of 2016

NMI (CO)
VS 12.11.2016

WEB COPY