

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.03.2016

CORAM:

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI

and

THE HON'BLE MR. JUSTICE M. VENUGOPAL

W.P. Nos.8458 and 8459 of 2016

and

W.M.P. Nos.7527 to 7530 of 2016

S. Sarala ...Petitioner in W.P.8458 of 2016
M. Revathi ...Petitioner in W.P.8459 of 2016

Vs.

1. The District Collector
Thiruvallur District
Thiruvallur
2. The Tahsildar
Poonamallee Taluk Office
Poonamallee - 600 056
Thiruvallur District ...Respondents in both the W.Ps.

Common Prayer for Both WPs : Writ Petitions filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus calling for the records in respect of the order no.Na.Ka.17820/2013/A2 dated 27.01.2016 issued by the second respondent herein as against the petitioners in respect of the schedule mentioned properties and quash the same and direct the respondents not to interfere with the peaceful possession and enjoyment of the schedule of property by the petitioners without due process of law.

SCHEDULE OF PROPERTY (in W.P. No.8458 of 2016)

All the piece and parcel of plot having an extent of 846 sq. ft. with building thereon situate at No.45, Keelma nagar, Poonamallee, Chennai 600 056, Thiruvallur District, comprised in S.No.103/1A3A1 (as per Patta No.5729 S No.103/1A31) of Poonamallee Village within the sub-registration district of Poonamallee and Registration District of Chennai and the plot is bounded on:

North by Plot of Bhavani
South by Sesha Nagar
East by Plot of Revathy Parthiban
West by Keelma Nagar Road
Measuring North by 25 ft., South by 16.25 ft., East by 41 ft. &
West by 41 ft.

SCHEDULE OF PROPERTY (in W.P. No.8459 of 2016)

All the piece and parcel of plot having an extent of 1066 sq. ft. with building thereon situate at No.25, Keelma Nagar, Poonamallee, Chennai 600 056, Thiruvallur District, comprised in S.No.103/1A3 (as per Patta No.5077 S No.103/1A3B) of Poonamallee Village within the sub-registration district of Poonamallee and Registration District of Chennai and the plot is bounded on:

North by Plot of R. Bhavani
South by Kandasamy Nagar (called as new Sesha Nagar)
East by Plot of M. Baskar and B. Kuzhalmathi
West by Remaining land of Kokila
Measuring North to South on East Side 41 ft. West Side 41 ft.
East to West on North Side 26 ft. South Side 26 ft.

For petitioner in : Mr. K.R. Narasimhan
both the WPs

For respondents in : Mr. P.S. Sivashanmugasundaram
both the WPs Special Government Pleader

COMMON ORDER

(delivered by SATISH K. AGNIHOTRI, J.)

Mr. P.S. Sivashanmugasundaram, learned Special Government Pleader, accepts notice for the respondents. With the consent of the learned counsel for the petitioner and the learned Special Government Pleader appearing for the respondents, the writ petitions are taken up for final disposal, at the admission stage itself.

2. The petitioners, impugning the orders dated 27 January 2016 passed by the second respondent, viz., the Tahsildar, Poonamallee Taluk, whereunder, they have been directed to remove the encroachment made in poramboke passage in Survey No.638 to an extent of 7.2 sq. ft., have come up with the instant writ petitions. They have further sought a direction to the respondents not to interfere with their peaceful possession and enjoyment of the schedule properties.

3. Before issuance of the impugned orders, proper show cause notices were served on the petitioners on 04 August 2015, to which, they have submitted their reply stating that they have not made any encroachment, inasmuch as the area in their possession is classified as 'sunshade'. The petitioners have enclosed several documents along with their reply. The second respondent, examining all the documents produced by them, has come to the conclusion that the encroachment is on the poramboke land.

4. It is worth pointing out that grant of permission for construction of a building in a specified area confines to the said area only and not beyond the area which may not be under the ownership of the concerned party. Here is a case where, while constructing the premises, the petitioners have made encroachment to an extent of 7.2 sq. ft, as found on proper consideration of the reply submitted by the petitioners. Thus, we find no reason whatsoever to interfere with the impugned orders.

Accordingly, the writ petitions which are bereft of any merit, stand dismissed. Costs made easy. Connected W.M.Ps. are closed.

Sd/-
Assistant Registrar(AS)

//True Copy//

Sub Assistant Registrar

cad

To

1. The District Collector
Thiruvallur District
Thiruvallur
2. The Tahsildar
Poonamallee Taluk Office
Poonamallee - 600 056
Thiruvallur District

+2cc's to Mr.K.R. Narasimhan, Advocate, S.R.Nos.14707 & 14708
+1cc to the Government Pleader, S.R.No.15763

W.P. Nos.8458 and 8459 of 2016

KK(CO)
CA(18/03/2016)