

THE HON'BLE SRI JUSTICE C.PRAVEEN KUMAR

WRIT PETITION No. 34725 of 2016

ORDER:

Heard Sri V.Jagapathi, learned counsel for the petitioners, learned counsel for the fifth respondent and learned Government Pleader for Revenue.

2. With the consent of both the parties, the Writ Petition is disposed of at the admission stage.

3. The present Writ Petition came to be filed with the following prayer:

‘For the reasons stated in the accompanying affidavit, it is hereby prayed that this Hon’ble Court may be pleased to issue a Writ, order or direction more particularly one in the nature of Writ of Mandamus, calling for records relating to impugned order L.Dis.G/1680/2016, dated 22.09.2016, from the file of the third respondent and after perusing the same, set aside the said order dated 22.09.2016 by declaring it as illegal, arbitrary and violative of principles of natural justice and consequently direct the respondents not to interfere with the petitioners possession and enjoyment of their private patta land in Survey Nos.195/1 and 195/2, situated in Vembakkam Village accounts, Nagalapuram Mandal, Chittoor District and with all other consequential benefits and pass such other order or orders as this Hon’ble Court may deem fit and proper in the circumstances of the case”.

4. The petitioners claim to be the owners of an agricultural land in Survey Nos.195/1 and 195/2 admeasuring Acs.2.15 cents and Ac.1.80 cents respectively situated in Vembakkam Village accounts, Nagalapuram Mandal, Chittoor District. The petitioners' father is said to have purchased the said property from one Sri Munaswamy Naidu after paying the consideration. It is stated that after the death of the father, the petitioners became the owners of the said property and since then they are in possession of the same. While things stood thus, respondent No.5 started canvassing in the village that respondent No.3 provided path way through the land of petitioners to reach his lands admeasuring Acs.4.12 cents in Survey Nos.196/3, 196/3A situated in Vembakkam village accounts. Subsequently, the petitioners were shocked to know that on the request made by respondent No.5, the Sub-Collector issued impugned proceedings dated 22.09.2016 vide L.Dis.G/1680/2016, directing respondent No.4-Tahsildar to set apart 15 links for pathway in the petitioners' land in Survey Nos.195/1, 195/2 to reach the land of respondent No.5 admeasuring Acs.4.12 cents in Survey Nos.196/3, 196/3A. It is stated that the said impugned proceedings were issued without any prior notice or opportunity to the petitioners who are absolute owners of the said land in Survey Nos.195/1 and 195/2. Aggrieved thereby, the present writ petition came to be filed.

5. Learned counsel for the petitioners submits that the action of respondent No.3 in issuing the impugned order is arbitrary since the land of the petitioners is a private patta land and not an assigned land or a Government poramboke land.

6. Learned Government Pleader would submit that since the respondents intend to lay a path without hearing the petitioners, it may be appropriate if an opportunity is given to the petitioners before taking any further steps.

7. Having regard to the circumstances stated above, the official respondents shall not take any steps of laying a road through the lands of the petitioners situated in Survey Nos.195/1 and 195/2, without issuing notice to the petitioners and without following due process of law.

8. With the above direction, the writ petition is disposed of.

9. Miscellaneous petitions, pending if any, shall stand closed in the light of this final order. No order as to costs.

JUSTICE C.PRAVEEN KUMAR

18.10.2016,
vhh