



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.07.2017

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P. (MD)No.10282 of 2014

and

M.P. (MD)No.2 of 2014

1. M.C.D.A.Rajan
2. Malliga Rajan

... Petitioners

-vs-

1. The District Collector
Tirunelveli District,
Tirunelveli - 9.
2. The Assistant Director (panchayats)
Tirunelveli Collectorate,
Tirunelveli - 9.
3. The Executive Officer,
Vadakku Valliyoor Town Panchayat,
Radhapuram Taluk,
Tirunelveli District.
4. The Competent Authority and
Special District Revenue Officer (LA-NH),
Tirunelveli.
5. The Sub - Inspector of Police,
Valliyoor Police Station,
Valliyoor
Radhapuram Taluk,
Tirunelveli District.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, to issue a writ of Mandamus, directing the Respondents to verify the land records and the records of the fourth Respondent and to collect from the petitioners, the compensation amount if any paid by the fourth Respondent to the petitioners, in respect of any part of 13620 sq. ft of land gifted by the petitioners to the third Respondent - panchayat for formation of Park- in 'Rajamalli Nagar Lay out' in Vadakku Valliyoor Town panchayat, Radhapuram Taluk, Tirunelveli District.



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For Petitioners : Mr.A.Thirumurthy
For R1, R2, R4 & R5 : Mr.J.Gunaseelan Muthiah,
Government Advocate
For R3 : Mr.V.Pandi
Government Advocate

ORDER

This writ petition has been filed, seeking a direction to the Respondents to verify the land records and the records of the fourth Respondent and to collect from the petitioners, the compensation amount if any paid by the fourth Respondent to the petitioners, in respect of any part of 13620 sq. ft of land gifted by the petitioners to the third Respondent - panchayat for formation of Park- in 'Rajamalli Nagar Lay out' in Vadakku Valliyoor Town panchayat, Radhapuram Taluk, Tirunelveli District.

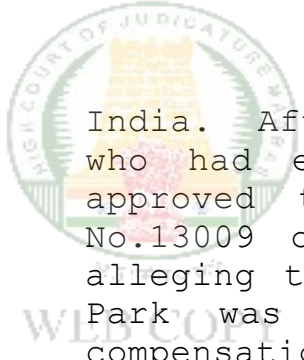
2. The case of the petitioners is as follows:

(i) The 1st petitioner laid a housing layout namely, 'Rajamalli Nagar' to an extent of 2.71 acres out of 4.18 acres in Survey No.1708/1B in Vadakku Valliyoor Town panchayat, Radhapuram Taluk, Tirunelveli District and he kept the remaining 1.47 acre of vacant land for his own use and he handed over 13620 Sq.ft. of vacant land reserved for park to the third respondent by way of a Gift Deed dated 30.12.1991. Subsequently, he transferred 5044 Sq.ft. of vacant land, out of 1.47 acre to his wife/2nd petitioner herein, by a Settlement Deed dated 02.07.2009 and she also constructed a house after getting a proper plan approval from the 3rd respondent in the land, a part of which was actually gifted by the 1st petitioner for establishment of the park. Hence, with a good intention to restore the actual extent of land allotted for park, he sent a proposal to the respondents on 13.08.2011, expressing his willingness to transfer equal extent of his land for establishment of Park. Since, the respondents did not take any action, he filed WP(MD) No.11867 of 2011, to direct the respondents to consider his representation dated 13.08.2011.

<https://hcservices.mca.gov.in/hcservices/>

(ii) In the meanwhile, the second respondent passed an order dated 19.08.2011, directing the third respondent to take appropriate action on his representation. As per the suggestion of the third respondent, he cancelled the Settlement Deed and also executed an Exchange deed dated 20.04.2012 between him and 3rd respondent exchanging 4539 Sq.ft. of vacant land and the Panchayat also accepted the exchange of land by passing a Resolution No.993 on 27.04.2012. Therefore, the WP(MD) No.11867 of 2011 was infructuous.

(iii) While so in 2009, a part of his land in Survey No.1708/1B was acquired by the National Highways Authority of



India. After a lapse of four years, the then Panchayat President, who had earlier assessed and collected the vacant land tax, approved the house plan of his wife, had filed CrI.O.P(MD) No.13009 of 2013 seeking to register a complaint against him, alleging that a part of the land gifted by him to Panchayat for Park was acquired for laying of Four lane road and the compensation was paid to him instead of paying the same to the Panchayat. This Hon'ble Court has passed an order on 23.08.2013 for disposal of the complaint in accordance with law. The respondents did not consider the fact that the land meant for Park has been restored to its original extent and did not verify the records and did not give an opportunity to him, but the third respondent lodged a complaint with the fifth respondent on 29.04.2014 alleging that the 1st petitioner committed the offence of assignment of the land meant for establishment of a Park in favour of his wife / 2nd petitioner by settlement and house construction plan got approved and after the land being gifted to the Panchayath, suppressing the said fact, he received the compensation from the National Highway authority in respect of the land given as a gift for establishment of a park. Finding some prima facie materials, the fifth respondent registered the FIR No.201 of 2014 dated 29.04.2014.

(iv) Whiles, with the malafide intention, one G.Subha filed CrI.O.P(MD) No.7439 of 2013 before this Hon'ble Court praying to register her complaint alleging that the Exchange Deed executed between him and the third respondent is not valid. This Court by its Order dated 30.04.2014, directed the Vigilance and Anti Corruption Authorities to act in terms of law laid down by the Apex Court and conduct a preliminary enquiry and proceed with the investigation in accordance with the law in case of any cognizable offence made out.

(v) The fourth respondent has paid the compensation to him, after due verification of revenue records. Hence, the allegation made against him in the complaint as well as in the FIR are false and baseless. Under these circumstances, the petitioners are before this Court with the above prayer.

3. Heard the learned counsel on either side.

4. Though the petitioners have sought for the larger extent of relief, the learned counsel for the petitioners has now submitted that the petitioners have confined their relief to the extent of repayment of compensation, if any, paid by the fourth respondent to the petitioners, in respect of a part of the land covering the total extent of 13620 sq.ft. gifted by the 1st petitioner to the Panchayat.

<https://hcservices.ecourts.gov.in/hcservices/> On the other hand, the learned Government Advocate submitted that the respondents have not received any representation from the petitioners in this regard.



6. Under such circumstances, to give quietus to the issue, the petitioners are directed to submit a representation along with a copy of this order to the respondents within a period of two weeks from the date of receipt of a copy of this order by furnishing all the required details/documents and on receipt of the same, necessary orders shall be passed by the respondents thereon after affording due opportunity of hearing to the petitioners, within a period of six weeks thereafter.

7. With the above direction, the Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(Writs)

/True Copy/

Sub Assistant Registrar

To:

1. The District Collector
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Tirunelveli - 9.
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Valliyoor Police Station,
Valliyoor, Radhapuram Taluk,
Tirunelveli District.

+1cc to Mr.A.Thirumurthy, Advocate in SR.No.66228

+1cc to The Special Government Pleader in SR.No.66977

rm/ar

AE/MR KKR/SAR4/28.07.2017/4P/8C

W.P. (MD) No.10282 of 2014
19.07.2017