

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.01.2018

CORAM :

THE HONOURABLE MR.JUSTICE N.SESHASAYEE

W.P.No.16695 of 2017

and

W.M.P.No.18075 of 2017

1. G.Angappan

2. Jeyamani

... Petitioners

Vs

1. The District Collector,
Dharmapuri
Dharmapuri District.

2. The Assistant Director of Panchayat,
Dharmapuri,
Dharmapuri District.

3. The Block Development Officer,
Nallampalli Panchayat Union,
Dharmapuri District.

4. The President,
Thadangam Panchayat Union,
Dharmapuri District.

.... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus directing the respondents to pay compensation to the petitioners for having laid the road in the land owned by them in Survey No.660/1C measuring an extent of 0.06.5 Hectares bearing Patta No.1084 in Thadangam Village, Dharmapuri District in the light of the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013(Act 30 of 2013) within a time to be stipulated by this Court.

For Petitioner : Mr.C.Prabakaran

For Respondents 1 & 2 : Mr.Akhil Akbar Ali
Government Advocate

For Respondents 3 & 4 : Mr.S.N.Parthasarathi

O R D E R

1.1 The petitioners, are brother and sister, allege that they are joint owners of a plot of land in S.No.660/1C of Thadangam Village, Dharmapuri District. The petitioners had purchased this property from one Periya Muniya Gounder under a registered sale deed dated 08.07.1991. While so, in November, 2007, the petitioners came to know that the 4th respondent attempted to lay a road in S.No.660/1C, and the same was financed by the 1st respondent. The petitioners therefore, issued a legal notice dated 14-02-2008 to the respondent claiming that the property in S.No.660/1C belongs to them, and to lay a public road without their consent is illegal.

1.2 This was responded to by the 3rd respondent by a reply dated 09-05-2008, wherein it is alleged that no such road was being laid. Notwithstanding the assurance so given, the respondents proceeded to lay a road and this has forced the petitioners to move the District Munsiff Court, Dharmapuri, in O.S.No.90 of 2008 for declaration of petitioners (plaintiffs in the suit) title against the President of Thadangam Panchayat Union, 4th respondent and Block Development Officer, 3rd respondent herein and the District Collector, 1st respondent herein. The Trial Court has dismissed the suit. Therefore, the appellants preferred an appeal to the Sub-Court, Dharmapuri in A.S.No.26 of 2011 and the First Appellate Court allowed the appeal and decreed the suit on 16.02.2012. Accordingly, the petitioners title to the property in S.No.660/1C was declared. Since the road was laid on the land belonging to the petitioners, the petitioners seek compensation for the same. Subsequent to the judgment in A.S.No.26 of 2011, the petitioners issued a legal notice dated 11.05.2015 to the defendants therein which included the respondents herein for redelivery of the property after removing the road laid forcibly. This notice was responded to by a reply notice dated 11.06.2015 on behalf of the Panchayat President. In his reply it is stated that 'g{!;Jjp ghijia'', the road was laid on 'g{!;Jjp ghij'' (pathway available in S.No.660/1C). This was reiterated by Block Development Officer in his communication dated 15.09.2015 addressed to the Assistant Director, Survey, marking a copy to the 1st petitioner herein. The 1st petitioner thereafter issued another representation on 01-11-2016 for redelivery of the property again. Thereafter, the petitioner has come forward with the present writ petition seeking a direction to the respondents to pay compensation in the manner known to law.

2. Heard the learned counsel for the petitioner and Mr.Akhil Akbar Ali, learned Government Advocate appearing for the respondents 1 and 2 and Mr.S.N.Parthasarathy, learned counsel appearing for the respondents 3 and 4.

3. The counter has not been filed, but given the short scope of the present proceeding, this Court decides to dispose of the

matter now.

4.1 On hearing the counsel for the petitioners and going through the typed set of papers, it is apparent that a decree has been passed, a contested decree in that in A.S.No.26/2011 where under the petitioners title to S.No.660/1C, Thadangam Village has already been declared. To re-emphasis the fact, the 1st respondent/the District Collector herein is a party to the said suit. The Collector was present before the appellate court to defend such interest that the State has had in the said suit. Going by few correspondences, which are either addressed to the petitioners, or exchanged between the authorities, it is seen that the appellate authority appears to be under a misconception that a 'Poosthithi Pathai' (g!!;Jjp ghij) on a property belonging to an individual is a poromboke piece of property and hence belonging to the Government.

4.2. Any classification in the Government record is not a conclusive proof of its character or its title. In the case of The Commissioner, Bhavani Municipality vs. C.Ramasamy and others [2015(4) CTC 25], this Court relying on an earlier judgment in Union of India vs. Vasavi Co-operative Housing Society Ltd & Others, [2014 2 SCC 269] has held that the revenue records do not confer title. Even if the entries in the revenue record state that T.S.No.2/12 it is a Boosthathi Tar Road, it will not be adequate to divest the petitioners of their to the said property.

4.3 The Government cannot go after the property of a citizen unless there is sanction in law. So far as this case is concerned, the petitioners have established their title in the Civil suit and the same stood confirmed in the judgement in A.S.No.26/2011. Therefore, it is no more given to the State to contend that the property on which road was laid does not belong to the petitioner if the same is in S.No.660/1C.

5. Considering the circumstances that now prevail, this Court modifies the prayer and direct the respondents to proceed to acquire so much of the lands of the petitioners on which the land was laid and initiate the action within four weeks from the date of receipt of a copy of this order and complete the entire acquisition proceedings within six months thereafter. The petition is accordingly disposed of with said direction. No costs. Consequently connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VII)

//True copy//

Sub Assistant Registrar

ssn

To

1. The District Collector,
Dharmapuri
Dharmapuri District.

2. The Assistant Director of Panchayat,
Dharmapuri,
Dharmapuri District.

3. The Block Development Officer,
Nallampalli Panchayat Union,
Dharmapuri District.

4. The President,
Thadangam Panchayat Union,
Dharmapuri District.

+2cc to Mr.C.Prabakaran, Advocate SR.No.7011
+1cc to Government Pleader SR.No.12892

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GN(01/03/2018)



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