

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED:16.02.2018
CORAM

THE HONOURABLE Mr. JUSTICE K.K.SASIDHARAN
AND
THE HONOURABLE Mr. JUSTICE P.VELMURUGAN

W.A.No.2433 of 2013 &
M.P.No.1 of 2013

S.Munusamy (died)
Adhilakshmi

.. Appellants

Vs.

1.The Special Commissioner and
Commissioner of Land Administration
Chepauk
Chennai 600 005.

2.The Collector of Kancheepuram District
Kancheepuram.

3.The Sub Collector (Incharge)
Chengalpattu.

4.T.R.Chandramouleeswaran

5.T.R.Padmalachani

6.T.R.Mala

7.T.R.Suryanarayanan

8.T.R.Senthilkumar

9.Chandrabai

10.Ramu

11.Mohan

12.Rajendran

13.Chamudeswari

14.Ravichandran

15.Thiruneelakandan

16.Bhuvaneswari

.. Respondents

Prayer : Writ Appeal filed under Clause 15 of Letters Patent to
set-aside the order dated 21.11.2012 made in W.P.No.75 of
2005, on the file of this Court.

WP.No.75 of 2005:Presented under Article 226 of the Constitution
of India to issue a writ of certiorarified mandamus calling for
the records of the first respondent comprised in its order dated
21.9.2004 passed in D.Dis(K3) R.P.15/2004 (30705/03), confirming
the order of the second respondent dated 6.6.2003 passed in
Ni.Mu.80033/2002(H) and quash the same and consequently direct

the third respondent to grant patta in favour of the petitioners in respect of the lands comprised in Survey No.398 in Chettipunniyam Village, Chengalpattu Taluk.

For Appellants : Mr.S.Ramesh
For R1 to R3 : Mr.V.Anandamurthy
Additional Government Pleader
For R4 to R8 : Mr.D.Muthukumar for M/s.Paul & Paul

J U D G M E N T

[Order of the Court was made by K.K.SASIDHARAN, J.]

The writ petition was initiated by S.Munusamy and Adhilakshmi in W.P.No.75 of 2005, challenging the order passed by the Special Commissioner and Commissioner of Land Administration, Chennai dated 21 September, 2004 confirming the order passed by the Collector, Kancheepuram dated 06 June, 2003, whereby and whereunder, the claim for patta in respect of the land in S.No.398 in Chettipunniyam Village, Chengalput Taluk was negatived.

2. Before the writ court, the learned counsel for the writ petitioners made a prayer to grant liberty to approach the Civil Court. The learned single Judge, while negating the plea, observed that in case permission is granted to file a Civil Suit, the private respondents have to face the ordeal of trial, even after completion of 15 years after rejecting the request for patta.

3. The learned counsel for the appellant submitted that the intra court appeal is restricted to the observation with respect to the initiation of civil proceedings. According to the learned counsel, the learned single Judge was not correct in denying the right to file a Civil Suit, as the same being a civil right.

4. We have also heard the learned Additional Government Pleader on behalf of respondents 1 to 3 and the learned counsel for respondents 4 to 8.

5. The appellant is primarily against the observation in paragraph 12 of the order dated 21 November, 2012. The learned Single Judge negatived the request for initiation of Civil Suit. There is no question of restraining a party from initiating a Civil Suit, if he is otherwise entitled. We make it clear that it is open to the appellant to file a Civil Suit, if she is so advised. It is always open to the defendants in the said suit

to oppose the suit both on merits as well as on the question of limitation.

6. The order passed by the learned Single Judge is modified to the extent indicated above.

The intra court appeal is disposed of with the above observation. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

gms

To

1.The Special Commissioner and
Commissioner of Land Administration
Chepauk
Chennai 600 005.

2.The Collector of Kancheepuram District
Kancheepuram.

3.The Sub Collector (Incharge)
Chengalpattu.

+1cc to Government Pleader Sr.No.12521

+1cc to M/s.Paul & Paul Advocate Sr.No.12276

RSY(CO)

sm:20.3.2018

सत्यमेव जयते

W.A.No.2433 of 2013

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