

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 05.06.2018

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.1540 of 2006
and W.M.P.No.1734 and 1735 of 2006

- 1 C. PAPPAYYA NAIDU
S/O. K.P.CHINNASAMY NAIDU,
PERUMALAGARAM VILLAGE CHENNAI-77.
- 2 P. JAYACHANDRAN
S/O. PAPPAYYA NAIDU,
PERUMALAGARAM VILLAGE, CHENNAI-77.
... PETITIONERS

Vs.

- 1 GOVERNMENT OF TAMILNADU
REP. BY ITS SECRETARY,
REVENUE DEPARTMENT, CHENNAI-9.
- 2 THE COLLECTOR
THIRUVALLUR DISTRICT THIRUVALLUR.
- 3 THE SUB COLLECTOR
PONNERI TALUK THIRUVALLUR DISTRICT.
- 4 THE TAHSILDAR
AMBATTUR TALUK THIRUVALLUR DISTRICT.
- 5 THIRUVERKADU SPL. GRADE TOWN
PANCHAYAT REP. BY ITS EXECUTIVE OFFICER
CHENNAI-77.
... RESPONDENTS

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the respondents not to interfere with the lawful possession and enjoyment of the lands measuring 1 Acre in S.No.36/14A 0.17 Cents in S.No.36/14B 0.02 cents in S.No.40/5C and 0.08 cents in S.No.40/5D situated in Noombal Village Ambattur Taluk Thiruvallur District (Patta No.197) by the petitioners and pay a compensation of Rs.10 lakhs towards damages caused to the compound wall with 18% interest per annum till the date of payment.

For Petitioners : Mr.N.R.Rajagopalan

For Respondents 1 to 4 : Mr.R.Govindasamy,
Spl. Govt. Pleader

For Respondent No.5 : Mr.R.Mohandoss

O R D E R

The petitioners have filed the writ petition seeking mandamus, directing the respondents not to interfere with the lawful possession and enjoyment of the lands measuring 1 Acre in S.No.36/14A 0.17 Cents in S.No.36/14B 0.02 cents in S.No.40/5C and 0.08 cents in S.No.40/5D situated in Noombal Village Ambattur Taluk Thiruvallur District (Patta No.197) by the petitioners and pay a compensation of Rs.10 lakhs towards damages caused to the compound wall with 18% interest per annum till the date of payment.

2 The case of the petitioners is that the first petitioner is the owner of the land comprised in S.No.36/14A, 36/14B, 40/5C and 40/5D situated at Noombal Village, Ambattur Taluk, Tiruvallur District. The said lands were purchased by sale deed, dated 12.10.1945 and 21.12.1945 for a valuable sale consideration. Thereafter, patta was issued by the revenue authorities and by mistake, in respect of the land in S.No.36/14A for an extent of 25 cents was omitted and no patta was issued for the lands in S.No.36/14B, 40/5C and 40/5D. Thereafter, the first petitioner made representation on 25.3.2005 to the respondents 3 and 4 to issue patta for the remaining extent of 25 cents in S.No.36/14A and 0.27 cents in respect of the lands in S.No.36/14B, 40/5C and 40/5D. Since the respondents have not taken any action on the representation, the first petitioner has filed writ petition in W.P.No.26047 of 2005 before this Court and this Court by order, dated 16.8.2005 directed the Tahsildar, Ambattur to pass appropriate orders within eight weeks after hearing the first petitioner and also the other parties. However, the respondents did not pass any orders, the first petitioner has issued legal notice on 19.12.2005 for non compliance of the order of this Court, dated 16.8.2005. Since no patta was issued for the aforesaid survey nos., the respondents proceeded to demolish the compound wall put up by the first petitioner. Aggrieved, the first petitioner has filed W.P.No.41306 of 2005 on 21.12.2005 before this Court. However, before listing the case, the compound wall was demolished by the Government machinery. Aggrieved by the same, the present writ petition has been filed for the aforesaid prayer.

3 The learned counsel for the petitioner would submit that without invoking law either land acquisition or any other law in force, the respondents demolished the compound wall put up by the petitioner which is unsustainable in law and the petitioners are entitled for damages against the respondents.

4 Per contra, the learned counsel for the 5th respondent viz., Thiruverkadu Spl. Grade Town Panchayat, would submit that the first petitioner has filed similar writ petition in W.P.No.41360 of 2005 and 41307 of 2005 before this

Court. The said writ petitions were dismissed as withdrawn without any liberty to file fresh writ petition. Hence, the present writ petition is not maintainable.

5 The learned Spl. Govt. Pleader for the respondents 1 to 4 would submit that the third respondent has filed counter. The sum and substance of the counter is as follows:

The petitioner along with other persons constructed a superstructure in Koovam river. In order to allow free flow of flood water in the Koovam river, the revenue authorities conducted survey and after survey it was brought to the notice that patta has been issued to various persons occupying the Koovam river. The pattadars have constructed many residential buildings in Koovam river which affected free flow of flood water in the river. Hence, the revenue authorities decided to demolish the buildings which lies in Koovam river and affects the free flow of water in the river. Accordingly, many buildings including compound wall of Dr.M.G.R. Engineering College located along the bound of Koovam river were demolished to pave the way for free flow of flood water in Koovam river. After identifying the encroachments, the Government machinery removed encroachments in order to face emergency flood situation which was occurred in the year 2006, when the entire city was flooded with water because of the encroachments in the Koovam river.

6 The petitioners in the writ petition seeking injunction against the respondents not to interfere with the petitioners' property. This Court under Article 226 of Constitution of India cannot decide title and also, the petitioners cannot claim damages before the Writ Court as the prayer in the writ petition involves disputed question of law. The petitioners have to approach the appropriate forum and work out the remedy in the manner known to law.

7 In view of the above, I do not find any merit in the writ petition and accordingly, the writ petition is dismissed with liberty to the petitioners to work out the remedy in the manner known to law. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

- 1 THE SECRETARY,
GOVERNMENT OF TAMILNADU, REVENUE DEPARTMENT, CHENNAI-9.
- 2 THE COLLECTOR, THIRUVALLUR DISTRICT, THIRUVALLUR.
- 3 THE SUB COLLECTOR, PONNERI TALUK THIRUVALLUR DISTRICT.
- 4 THE TAHSILDAR, AMBATTUR TALUK THIRUVALLUR DISTRICT.

+2cc to Mr.B.S.Gnandesikan, Advocate Sr.No.35149

+1cc to Mr.R.Mohandoss, Advocate SR.No.34894

+2cc to Mr.V.Raghupathi, Advocate Sr.No.35197

MR(CO)

sm:19.6.2018

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W.M.P.No.1734 and 1735 of 2006
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