

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.04.2019

CORAM

THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

W.P.No.13664 of 2016
and W.M.P.No.11953 of 2016

1. A.K.Natarajan
2. A.Raja Chidambaram .. Petitioners

Vs.

1. The District Revenue Officer,
Perambalur District,
Perambalur.

2. The Revenue Divisional Officer,
Perambalur.

3. The Tahsildar,
Veppanthattai,
Perambalur District.

4. The Executive Officer,
Arumbavur Town Panchayat,
Arumbavur, Perambalur District. .. Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari to call for the records of the first respondent in his order in N.M.C.18540/2012, dated 12.03.2015 relating to the petitioner's land of an extent of 3484 sq.ft. situated in S.No.495/1 in Poolambadi Road, Arumbavur Village, Veppanthattai Taluk, Perambalur District, quash the same.

For Petitioner : Mr.V.Ravi

For Respondents: Mr.N.Inbanathan,
Additional Govt. Pleader

O R D E R

Seeking to quash the order of the first respondent dated 12.03.2015 affirming the order of rejection of patta passed by the second respondent, the petitioners are before this Court.

2. The petitioners are cousins. Their respective fathers via a registered partition deed dated 15.07.1976 partitioned the property to an extent of 3484 sq.ft. in Survey No.495/1 in Arumbavur village, which belongs to their forefathers and is in their possession and enjoyment and after their lifetime devolved on the petitioners. On 07.05.2012, the first petitioner applied for patta, which was rejected by the second petitioner vide the order dated 28.09.2012, after enquiry. Aggrieved over the same, the petitioners filed an appeal before the first respondent on 21.10.2012. In the interregnum, the petitioners filed O.S.No.267 of 2012 on the file of the District Munsif Court, Permabalur, on the premise that there is a threat of their dispossession at the hands of the third respondent and the same is pending. The first respondent affirmed the order dated 28.09.2012. Hence, the petitioners are before this Court.

3. Resisting the claim of the petitioners, a counter affidavit has been filed by the respondents, wherein, it is stated that the land in the disputed survey number, i.e., Survey No.495/1, was classified as "Arasu Poramboke Natham" in 1927 Settlement "A" Register and after sub division, 760 sq.ft. was allotted to the Arumbavur Town Panchayat for forming a 'Children's Park', after following due process of law and to prevent the said public cause only the petitioners filed this writ petition. It is also stated that the alleged partition deed was only for 2 cents each to the petitioners, whereas, their claim for patta is for 4 cents each, which has no basis and they have no right towards the said land. The respondents also denied the claim of the petitioners that they are in continuous possession of the property, as the same is a vacant land without any encroachment.

4. The respondents categorically claimed in the counter affidavit dated 22.10.2016 that the land in dispute is a "Arasu Poramboke Natham" land and even now it is lying vacant without any encroachment, which apparently shows that the petitioners are not in possession and occupation of the same and hence, after following due process of law, a portion of the sub-divided land was allotted to the Arumbavur Town Panchayat for a public purpose. The petitioners have neither chosen to file any rejoinder refuting the said allegation nor filed any material to rebut the same and to substantiate their stand. The reliance

placed on the alleged partition deed is also disputed by the respondents stating that only 2 cents of lands were allotted to the petitioners in the subject survey number, whereas, they sought patta for 4 cents. Further, it is to be stated that the petitioners are in possession of 87 cents of the subject survey number, out of which only 8 cents is classified as "Arasu Poramboke Natham". If any material is placed before this Court to show that the said land is a natham land, then this Court could draw adverse inference against the Government qua its right. In the absence of such material, this Court is of the view that the orders of the respondents cannot be found fault with.

5. In such circumstances, the contention of the respondents that knowing fully well these facts, with a view to cause hindrance to the public cause and grab the land, the petitioners filed this writ petition cannot be brushed aside lightly.

6. The judgment relied on by the learned counsel for the petitioners in the Executive Officer, Kadathur Town Panchayat V. V.Swaminathan, 2004 (3) CTC 270 and the judgment dated 11.10.2018 made in W.P.Nos.26234 and 26237 of 2018 (T.S.Ravi and another V. The District Collector, Thiruvallur District and others) are with respect to the lands classified as Grama Natham and hence, the said judgments are distinguishable from the facts of the case on hand.

7. Further, the petitioners claimed that the suit filed by them in O.S.No.267 of 2012 on the file of the District Munsif Court, Permabalur, is pending as on date. In the absence of any materials before this Court to substantiate their claim, the impugned order does not warrant interference from this Court. It is open to the petitioners to work out their remedy before the appropriate forum.

8. Accordingly, this writ petition fails and the same is dismissed. There will be no order as to costs. W.M.P.No.11953 of 2016 is closed.

Sd/-

Assistant Registrar(CCC)

//True copy//

Sub Assistant Registrar

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To

1. The District Revenue Officer,
Perambalur District,
Perambalur.
2. The Revenue Divisional Officer,
Perambalur.
3. The Tahsildar,
Veppanthattai,
Perambalur District.
4. The Executive Officer,
Arumbavur Town Panchayat,
Arumbavur, Perambalur District.

+1cc to Mr.V.Ravi, Advocate SR.No.32350

W.P.No.13664 of 2016

MG (CO)
GMY (30/04/2019)



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