

W.P.No.20114 of 2010

and

M.P.No.1 of 2010

M. DHANDAPANI, J

This writ petition is listed today under the caption 'for being mentioned' at the instance of the learned counsel appearing for the petitioner.

2.The learned counsel appearing for the petitioner submits that in Para No.1 of the order dated 24.07.2019, the prayer has bene wrongly typed . therefore, he prays that necessary corrections be made to Para No.1 of the order dated 24.07.2019 in W.P.No.20114 of 2010.

3. It is seen that due to inadvertance, the prayer has bene wrongly typed in para No.1. Accordingly Para No.1 of order dated 24.07.2019 shall stand substituted with the following:

“ The petitioner has filed thsi writ petition, seeking the following relief:

to issue a writ of Mandamus, forbearing the respondents, their men, agents, servants, subordinates and staff from laying road over the petitioners' property namely

M.DHANDAPANI, J

jrs

western 740 Sq.ft (10 feet x 74 feet) out of 1702 sq.ft of vacant land in S.No.84/1A, Naravarikuppam Village, Madhavaram Taluk, Thiruvallur District bounded on the North by Anna Street, on the South by P.W.Officer Road, on the East by sites of G.Mohan and R.Dharmalingam and on the West by Sivasankaran house or in any other manner interfering with or disturbing the petitioners's peaceful possession and enjoyment thereof. "

Except the above modification in para No.1 of the order dated 24.07.2019, made in W.P.No.20114 of 2010 the order shall remain unaltered.

4.Registry is directed to carry out the above corrections and issue fresh copy of the order to the respective counsel at free of cost.

jrs

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W.P.No.20114 of 2010

and

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.07.2019

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THE HONOURABLE **MR.JUSTICE M.DHANDAPANI**

W.P.No.20114 of 2010 &
M.P.No.1 of 2010

1. P. Velu

2. V.Saravanan

...Petitioner

Vs.

1.Naravarikuppam Town Pachayat,
By its Exectuive Officer,
Naravarikuppam,
Redhills, Chennai-600 052.

2.The President,
Naravarikuppam Town Panchayat,
Naravarikuppam,
Redhills, Chennai-600 052.

Respondents

Prayer: The writ petition filed under Article 226 of the Constitution of India, to issue a writ of Mandamus, forbearing the respondents, their men, agents, servants, subordinates and staff from laying road over the petitioners' property namely westrn 740 sq.ft. (10 feet x 74 feet) out of 1702 sq.ft. Of vacant land in S.No.84/1A, Naravarikuppam Village, Madhavaram Taluk, Thiruvallur District bounded on the North by Anna Street, on the South by P.W. Office Road, on the East by sites of G.Mohan and R.Dharmalingam and on the West by Sivasankaran house or in any other manner interfering with or disturbing the petitioners' peaceful possession and enjoyment thereof.

For Petitioner : M/s.N.R.Anantha Rama Krishnan

For Respondents : Mrs.K.Bhuvaneswari
Addl. Govt. Pleader

ORDER

The petitioner has filed this writ petition, seeking the following relief:-

"To issue a writ of Certiorarified Mandamus, to call for the records of the ^{first} respondent's G.O.(D) No.149 Industries (MMB2) Department dated 28.08.2010, pertaining to the petitioner's patta lands measuring 0-40-5 Hectares in S.F.No.266/3, 0.30.0 Hectare in S.F.No.264/1, 0.04.5 Hectare in S.F.No.264/2, 0.00.5 Hectare in S.F.No.264/3, 0.11.0 Hectares in S.F.No.266/2A and 0.13.0 Hectare in S.F.No.266/2B totally measuring 0.99-5 Hectares, situated in Nallur Village of Vendasandur Taluk, Dindigul District, quash the same and direct the first respondent to grant renewal of the quarrying lease by reconsidering the petitioner's renewal application dated 24.09.2007."

2.The case of the petitioners is that the petitioners are father and son. The 1st petitioner's mother viz., Manoranjithammal, wife of R.Ponnusamy Gramani of Kavangarai, Puzhal, Chennai-66, owned the vacant land of 1702 sq.ft. in S.No.84/1A, Naravarikuppam Village, Madhavaram Taluk, Tiruvallur District, having purchased the same from one Mukund Naidu at

Naravarikuppam Village, through a sale deed dated 17.12.1952 in Document No.2471/1952 on the file of SRO, Sembium. After the death of Manoranjithammal, the legal heirs viz., 1st petitioner and four brothers have succeeded to the estate of her. During the year 1997, the first respondent threatened to interfere with the peaceful possession and enjoyment of the aforesaid property. Hence, the legal heirs of the Manoranjithammal filed a suit in O.S.No.889 of 1997 on the file of the District Munsif Court, Thiruvotriyur, against the first respondent. After contest, they have obtained a decree and judgment for permanent injunction, by an order dated 18.03.1997. As against the judgment and decree, no appeal has been preferred by the respondents. In the year 2002, without petitioners' knowledge, the respondents have entered into an arrangement with the brothers viz., P.Sambandamurthy, P.Vadivelu and P.Balu, in respect of 740 sq.ft. Out 1702 sq.ft. to transfer the said extent in their favour on payment of adequate compensation to be determined by the Government. In the said arrangement, the petitioners were not parties. Since the respondents did not arrange for payment of compensation for the lands to be conveyed to them, no transfer was effected. Out of the entire extent of 1702 sq.ft., 962 sq.ft. has been conveyed to third parties in two sale deeds, one in favour of G.Mohan for an extent of 444 sq.ft. and another sale

deed in favour of R.Dharmalingam for an extent of 518 sq.ft. While that being so, the officials of the respondents have attempted to grab the property in question for formation of the road, as against which, the present writ petition has been filed.

3.The learned Additional Government Pleader appearing for the first respondent/Town Panchayat filed a counter affidavit wherein it is stated that the disputed land used as road comprised in Survey No.84/1A, Naravarukuppam Village, Madhavaram Taluk, Thiruvallur District, has also been used by the villagers and others as pathway for more than 50 years. It is further stated that the disputed Road leads to Primary Health Centre at Naravarikuppam and there is no other way to reach the said Primary Health Centre. Further, the Naravarikuppam Village records show that Survey No.84/1A1 belongs to Tamil Nadu Slum Clearance Board and Survey No.84/1A2 is Village Natham. Hence, the disputed question of facts cannot be raised under Article 226 of the Constitution of India.

4. On perusal of the records, it is seen that the petitioners are claiming the title over the property based on the decree obtained from the Civil Court and they have also produced a sale

deed dated 17.12.1952 in favour of the mother of the first petitioner. However, it reveals that in the suit, permanent injunction was granted in favour of the first petitioner and his brothers. It appears that out of 1702 sq.ft., 962 sq.ft. sold to third parties. However, in the present case, the respondents claimed that the property in dispute is a pathway which leads to Primary Health Centre, Naravarikuppam Village, Madhavaram Taluk, Thiruvallur District.

5. In view of the above discussion, this Court is not inclined to give any positive direction to the petitioners. However, it is made clear that no person much less the petitioner, can be evicted from the Government land. The petitioners have to be evicted in the manner known to law by resorting to either under the Land Acquisition Act or Tamil Nadu Land Encroachment Act.

6. In view of the foregoing reasons, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

24.07.2019

Speaking Order/Non-speaking Order
Index : Yes/No
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To

1.Naravarikuppam Town Pachayat,
By its Exectuive Officer,
Naravarikuppam,
Redhills, Chennai-600 052.

2.The President,
Naravarikuppam Town Panchayat,
Naravarikuppam,
Redhills, Chennai-600 052.



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