

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.01.2019

CORAM

THE HONOURABLE Mr.JUSTICE V.BHARATHIDASAN

W.P. 3136 of 2018 & W.M.P. 3851 of 2018
and
W.P. 3137 of 2018 & W.M.P.s 3852 & 3853 of 2018

S.Nagaraj ... Petitioner in W.P.
3136 of 2018

1. Vijayaraghavan
2. Ananthasayanam ... Petitioners in W.P.
3137 of 2018

Vs

1. The District Revenue Officer,
Villupuram.

2. The Revenue Divisional Officer,
Revenue Divisional Office,
Kallakurichi,
Villupuram.

3. The Tahsildar,
Vanur Taluk,
Vanur,
Villupuram District.

4. Assistant Director,
Department of Survey and
Land Records,
Villupuram.

5. Rajasekaran,
S/o. Vijayarangan,
Narayanapuram Taluk,
Vanur Taluk.

... Respondents
in both Petitions

PRAYER :

Petition filed under Article 226 of the Constitution of India, praying to issue Writ of Certiorari calling for the

records of the impugned order dated 14.12.2017 passed by the 1st respondent herein in his Proceedings Na.Ka.Aa2/25292/2017 and quash the same.

For Petitioners : Mr.D.Ravichander

For Respondents : Mr.R.Govindasamy,
Special Government Pleader
for R1 to R4

C O M M O N O R D E R

These Writ Petitions have been filed challenging the order passed by the 1st respondent dated 14.12.2017 to restore the cart track in various Survey Nos.101, 99, 98, 96, 97 87, 88, 15, 17, 14, at Vanur Taluk, Villupuram District.

2. According to the petitioners, they are the owners in Survey No.237/1A and 145/3 respectively in V.Pudhupakkam Village, Vanur Taluk, Villupuram District, and they are in possession and enjoyment of the property absolutely. Based on a complaint given by the 5th respondent alleging that there was a cart track in the above village commencing from Survey No.101/1 and passes through various Survey Nos. viz., 101, 99, 98, 96, 94, 87, 88, 15, 17, 14, and the same has been used by the general public for several decades. When the land was resurveyed during the UDR scheme, the cart track was not mentioned in the Field Measure Book and taking advantage of the same, the petitioner is preventing the other villagers from using the cart track. Based on the above complaint, an enquiry was conducted by the 1st respondent, wherein the petitioners have appeared and raised their objections stating that there is no cart track available in the above said survey numbers. But, without considering the petitioners' objections, now the impugned order has been passed by the 1st respondent directing the respondents 2 to 4 to make a entry in the F.M.B. showing the cart track. The main grievance of the petitioner is that the above order has been passed without considering the fact that there is no cart track available in the above said survey numbers and even the revenue records does not show any cart track, without considering the same, the impugned order has been passed.

3. The 3rd respondent has filed a counter affidavit stating that a cart track was in existence in the above said survey numbers for more than three decades and it is also found in the revenue records, chitta adangal and F.M.B. sketch, the said cart track is being utilised by the farmers of the surrounding village to reach their land from old Gingee Road, even today, the said cart track is in existence and it has been used by all the farmers without any interruption. During the resurvey under

the UDR scheme, unfortunately, the cart track was omitted to be mentioned in the F.M.B., taking advantage of the same, the petitioners are attempting to damage the cart track. Hence, the representation has been made by the village people and the 5th respondent has given a petition before the 1st respondent to rectify mistake made in the revenue records for the welfare of the general public. Based on the representation given by the 5th respondent, the 1st respondent has resurveyed the lands in the above said survey numbers. Thereafter, he has conducted enquiry after giving opportunity to all the persons including the petitioners and also directed the Assistant Director of Survey to survey the land and submit a report after surveying the lands. Based on the same, the Assistant Director of Survey also measured and submitted a report and as per the report of surveyor, there is a cart track passing through the said survey numbers. Having considered the old records, survey report and after following the rules mentioned in the chain manual, 1st respondent directed the 3rd respondent to make necessary corrections in the revenue records. Subsequently, the 3rd respondent has rectified the revenue records relating to the cart track. The 1st respondent has passed the impugned order only after giving opportunity to all the persons including the petitioners and the respondents did form any new cart track as claimed by the petitioners. The said cart track is there in the field for more than 100 years and it is only during the resurvey under the UDR scheme, there is a omission in mentioning the cart track in the revenue records as per the report. Thus, the respondents have not restored any new cart track as pleaded by the petitioners.

4. I have considered the submissions made by the learned counsel appearing for the petitioner as well as the learned Special Government Pleader appearing for the respondents and perused the records carefully.

5. It is the case of the petitioners that there is no cart track is available in the land belong to the petitioners in the above mentioned survey numbers. The impugned order has been passed without conducting any proper enquiry. It is the case of the respondents that there is a cart track available for time memorial, before the UDR scheme, in the village revenue records the cart track has been clearly mentioned, during the UDR scheme, mistakenly the cart track was not shown in the revenue records. When the public said to have using the cart track have filed a complaint before the 1st respondent, on the complaint, the 1st respondent has conducted an enquiry, in which the petitioners were also present, and submitted their objections, wherein they have stated that the pathway was available. However, before passing the impugned order, the 1st respondent has directed the survey department to measure the property and

based on the report and also considering all other records, which were available prior to the UDR scheme, come to a conclusion that a pathway was in existence, and during the UDR scheme, due to oversight, it was not mentioned in the revenue records. However, a liberty was also given to the petitioner to approach the competent court to seek for any remedy, if they so aggrieved by the order.

6. Considering all those materials, the petitioners themselves appeared before the enquiry and submitted that there is a pathway available and the villagers are using the same with the permission of landowners, now it is not open to them to say that there is no pathway available. If at all, the petitioners have any dispute over the pathway, it is always open to them to approach the competent court and get suitable remedy by establishing their right. In the above circumstances, I do not find any infirmity in the order passed by the 1st respondent. Hence, the Writ Petition deserves to be dismissed and accordingly, it is dismissed. No costs. Consequently, the connected Writ Miscellaneous Petitions are closed.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

rpp

To

1. The District Revenue Officer,
Villupuram.
2. The Revenue Divisional Officer,
Revenue Divisional Office,
Kallakurichi, Villupuram.
3. The Tahsildar, Vanur Taluk,
Vanur, Villupuram District.
4. Assistant Director,
Department of Survey and Land Records,
Villupuram.

+2cc to Mr.D.Ravichander, Advocate, S.R.No.6407, 6408

+1cc to Mr.N.Suresh, Advocate, S.R.No.6631

+1cc to the Government Pleader, S.R.No.8170, 8169

W.P.3136 of 2018 & W.M.P. 3851 of 2018 and
W.P.3137 of 2018 & W.M.P.s 3852 & 3853 of 2018

CS/22/02/2019