



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 19.06.2019
CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU
AND
THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.A.(MD)No.497 of 2019
and
CMP(MD)No.4250 of 2019

1. The State of Tamil Nadu rep. by
The Commissioner & Secretary to Government,
Land Administration Department,
Fort St. George,
Chennai - 600009.
2. The District Collector,
Collectorate,
Tiruchirapalli.
3. The District Backward Class &
Minority Welfare Officer,
Collectorate, Tiruchirapalli.
4. The Tahsildar (Adi Dravida Welfare)
Tiruchi Road, Thuraiyur,
Tiruchirapalli District. ... Appellants/Respondents

Vs.

1.Seetharaman

2.Chellappan

... Respondents/Petitioners

PRAYER: Writ Appeal is filed under Clause 15 of Letters Patent, to set aside the order dated 01.08.2018 made in W.P(MD)No.9364 of 2009.

Prayer in WP(MD). 9364/ 2009 :

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Declaration or any other appropriate writ of order or direction in the nature of writ declaring the cancellation of patta 1187 in Musiri west Village in Musiri Taluk, trichy district by deletion of the petitioners name in null and void and consequently directing the Respondents to correct the revenue records suitably by sub division of lands and issue necessary patta to them.

<https://hcservices.ecourts.gov.in/hcservices/>
For Appellants : Mr.V.R.Shanmuganathan
Spl. Govt. Pleader
For Respondents : Mr.V.Karuna

**JUDGMENT**

[Judgment of the Court was delivered by **K.RAVICHANDRABAABU, J.**]

This writ appeal is directed against the order passed in W.P (MD) No.9364 of 2009 dated 01.08.2018.

2.The respondents herein are the writ petitioners. They sought for a declaration to declare the cancellation of patta 1187 in Musiri west village in Musiri Taluk, Trichy District by deletion of the petitioners' name as null and void and consequently for a direction to the respondents to correct the revenue records suitably by sub-division of lands and issue necessary patta to them.

3.According to the writ petitioners, they purchased an extent of 40 cents of land at S.No.82/1 from their erstwhile owner and patta is also granted to them in respect of the said land. It is their further case that when the land at S.No.82/1 was sought to be acquired, the acquisition proceedings commenced and ended by acquiring an extent of 2.02 acres alone at S.No.82/1 thereby sub-dividing the property and giving the new survey number as 82/1A. It is further contended by the petitioners that the petitioners' land was not included in the acquisition proceedings and however, it was wrongly included in the award proceedings, thereby granting award to the erstwhile owner without even issuing notice to the petitioners. It is their case that in pursuant to the acquisition proceedings, the revenue officials cancelled the patta without issuing notice to the petitioners and therefore, the petitioners approached this Court and filed the present writ petition. The respondents in the writ petition since contended that identity of the land could not be made out and that the petitioners' land was not acquired, the Writ Court appointed an Advocate Commissioner, who in turn filed a report stating that the petitioners' land falls within S.No.82/1A and 3A1 is clubbed as 82/1A. Based on such report, the Writ Court has disposed of the writ petition by specifically observing that the petitioners' land was not acquired by the Government and by setting aside the cancellation of patta in 1187. The Writ Court also directed the respondents to issue patta in the name of the petitioners to their land in S.No.82/1A.

4.The learned Special Government Pleader appearing for the appellants submitted that the land acquired measuring to an extent of 2.02 acres after sub-divisional falls within S.No.82/1A. Therefore, he contended that the petitioners are not entitled to claim patta in respect of their land measuring 40 cents in S.No.82/1A. Therefore, the learned Special Government Pleader contended that if the petitioners are having any dispute with regard to the identification of their property, they should have approached the Civil Court and filed appropriate suit for seeking the relief either against the owner, who sold the land, for damages or for identification of the property they purchased. Therefore, he



contended that the writ petitioners are not justified in filing a simple Mandamus to declare the cancellation of patta as null and void, especially when patta were cancelled in respect of the land acquired under S.No.82/1A.

5. On the other hand, the learned counsel appearing for the writ petitioners submitted that the property purchased by them is lying within S.No.82/1A.

6. There is no dispute as to the fact that land acquisition proceedings were initiated in respect of S.No.82/1 and an award is also passed in respect of 2.02 acres in respect of S.No.82/1A. Admittedly, the petitioners are seeking relief in respect of patta in respect of the property in S.No.82/1A. When an acquisition proceedings has already taken and concluded in respect of S.No.82/1A, we do not find any justification on the part of the petitioners in filing the writ petition without challenging the acquisition proceedings at any point of time. Since, the cancellation of patta is only a consequential proceedings arising out of the acquisition proceedings taken in respect of the land in S.No.82/1A, if the petitioners have any grievance either against the acquisition proceedings or in respect of the award, it is always open to them to seek appropriate relief by way of filing appropriate proceedings before the competent civil Court and not by way of filing writ petition as prayed for in the Writ Court. Therefore, we find that the Writ Court is not justified in granting the relief in respect of the land which is admittedly acquired already at S.No.82/1A. Thus, the Writ Appeal is allowed and the order made in the writ petition is set aside, however, by granting liberty to the petitioners to work out their remedy in a manner known to law before the appropriate civil Court. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar (CS)

+2 CC to MR.V.KARUNA, Advocate (SR-70145[F] dated 20/06/2019)
+1 CC to SPL GP (SR-70301[F] dated 20/06/2019)

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