

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 11.11.2020

CORAM

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

W.P.No.28623 of 2013

and

M.P.No.1 of 2013

(Heard through VC)

- 1.M.Soundhari
- 2.M.Malliga
- 3.M.Sathya
- 4.M.Jayanthi
- 5.M.Moorthy
- 6.M.Murali
- 7.M.Puroshothaman

.. Petitioners

-vs-

- 1.The District Collector,
Kancheepuram District,
Kancheepuram.
- 2.The Tahsildhar,
Tiruporur Taluk,
Kancheepuram District.
- 3.The President,
Muttukadu Town Panchayat,
OMR Road,
34 Eaygatur Village,
Tiruporur Taluk,
Kancheepuram District.

- 4.S.Ramesh

.. Respondents

Prayer: Petition filed under Article 227 of Constitution of India to issue a Writ of Mandamus forbearing the respondents from interfering with possession and enjoyment of the property belong to the petitioners in Old S.No.97 and New S.No.97/1A, 34 Eaygatur Village, Tiruporur Taluk, Kancheepuram District to an extent of 12.5 cents in the name of laying road except by due process of law.

For Petitioners : Mr.G.Sankaran
For RR1 & 2 : Mr.Md.Ilayaraja
Special Government Pleader
For R3 : Served - No appearance

O R D E R

The writ petition is filed for a mandamus forbearing the respondents from interfering with possession and enjoyment of the property belong to the petitioners in Old S.No.97 and New S.No.97/1A, 34 Eaygatur Village, Tiruporur Taluk, Kancheepuram District to an extent of 12.5 cents in the name of laying road except by due process of law.

2. The facts of the case is that one Mr.Murugesan, the husband of the first petitioner and father of the petitioners 2 to 7 purchased the land in S.No.97 (New No.97/1A), 34 Eagatur Village, Tiruporur Taluk, Kancheepuram District to an extent of 24.5 cents vide registered sale deed. After the demise of Murugesan, the property devolved on the legal heirs, the petitioners herein. In order to sustain the family expenditure, the petitioners have sold a portion of the property through two registered sale deeds in favour of the fourth respondent. Therefore, out of 24.5 cents of the land, 12 cents of the land in 'L' shape was sold to the fourth respondent. The remaining extent of 12.5 cents being retained as joint family property. While so, the fourth respondent with the help of third respondent constructed shops in his 7 cents of land on the brim of main road leaving no space for access to the back side of the land. The third respondent based on the fund allotted by the first and second respondents, taking steps to lay road on the patta land belongs to the petitioners. Hence, the petitioners have filed this writ petition to forbear the respondents from interfering with the possession and enjoyment of the property belonging to the petitioners.

3. In response, a counter has been filed by the Second respondent-Tahsildar along with the communication with regard to the disputes raised by the petitioners. In Paragraph 6 of the counter affidavit, the Tahsildar has specifically stated that the petition mentioned property was inspected by him along with the surveyor and he filed a report stating that the subject matter is purely a rivalry civil dispute between the two parties regarding their title and possession of patta land and the formation of road. The Government has got no proposal to lay any road and it is only a private dispute. The land comprised in

S.No.97/1A measuring to an extent of 0.24.5 ares is classified as dry land in revenue accounts and it is named as Tr.Kanniyappan in Patta No.25 of Egathoor Village, Tiruporur Taluk, out of which, the certain extent of property was sold to one Ramesh, who is shown as the fourth respondent, a resident of the same village under three documents and purchasers are in enjoyment of the same.

4. Heard the learned counsel on either side and perused the materials available on record.

5. A perusal of the counter-affidavit goes to show that the surveyor also seems to have been filed a report along with the photographs and rough sketch, which clearly indicates that it is only a dispute between the petitioners and the fourth respondent regarding the usage of passage and not as alleged by the petitioners that the respondents are laying a road blocking the access of the petitioners. In this regard, a communication from the Block Development Officer to the District Collector in Na.Ka.No.1357/2015/A1 dated 07.04.2017 was produced, in which it is specifically stated that in S.No.97/1A, there is no road laid by the Panchayat. Further, there is no resolution passed by the Panchayat for laying the road and that there is also no expenditure shown for laying the road. The said communication was based on the spot inspection report dated 05.04.2017 given by the Zonal Deputy Block Development Officer, Tiruporur Panchayat Union. On the same day, the Village Panchayat Secretary has addressed a letter to the Special Officer/Block Development Officer, Tiruporur Panchayat Union, specifically stating that in S.No.97/1A, there is no road laid by the Panchayat and there is no such resolution in that regard. It is stated that based on these letters, the counter affidavit has been filed by the Tahsildar.

6. As it is specifically stated, after the Spot Inspection, that there is no road laid in S.No.97/1A, the petitioners cannot have any grievance. Hence, the writ petition is dismissed as devoid of merits. No costs. Consequently, the connected miscellaneous petition is closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1.The District Collector,
Kancheepuram District,
Kancheepuram.

2.The Tahsildhar,
Tiruporur Taluk,
Kancheepuram District.

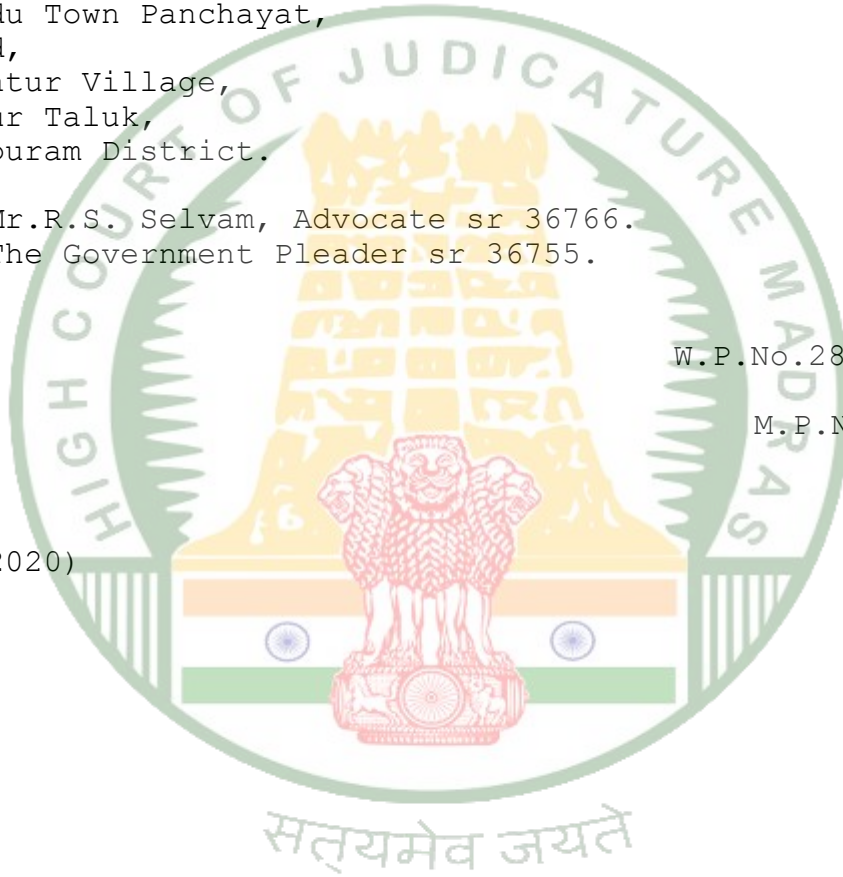
3.The President,
Muttukadu Town Panchayat,
OMR Road,
34 Eaygatur Village,
Tiruporur Taluk,
Kancheepuram District.

+1 CC to Mr.R.S. Selvam, Advocate sr 36766.

+1 Cc to The Government Pleader sr 36755.

W.P.No.28623 of 2013
and
M.P.No.1 of 2013

CP(CO)
SP(10/12/2020)



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