IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.01.2021

C O R A M
THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE
W.P.No.16540 of 2013 &
MP.No.1 of 2013

G.N.Chandrabalan,
President,
Chambers of Commerce and Theppa Committee,
80-B, Melarajaveethi,
Thiruvarur - 614 001. ... Petitioner

Vs.

The Commissioner,
Mannargudi Municipality,
Mannargudi,
Thiruvarur District. ... Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India, for issuance of a writ of mandamus to direct the respondent to restore the petitioner's property comprised in Survey Nos.2085, 2086/1 and 2087/1, Mannargudi to its original position.

For Petitioner :Mr.P.Sesubalan Raja

For Respondent :Mr.P.Srinivas,
Standing Counsel

O R D E R

This writ petition has been filed for a mandamus seeking for a direction to the respondent to restore the petitioner's property comprised in Survey Nos.2085, 2086/1 and 2087/1, Mannargudi to its original position.

2. It is the case of the petitioner that he is the president of Chambers of Commerce and Theppa Committee situated at 80-B, Melarajaveethi, Thiruvarur - 614 001. According to him, the organisation is 110 years old and he has been serving as its president for more than eight years. According to him, by sale deed dated 22.11.1917, Mannargudi Municipality sold the property comprised in Survey No.2085 at Mannargudi to the Theppa committee, Mannargudi in which the petitioner claims to be its president. It is also the case of the petitioner that the property comprised in S.Nos.2086/1 & 2087/1 were also gifted to the committee by two other individuals.

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3. It is the case of the petitioner that the respondent has attempted to lay road in the property comprised in S.Nos.2085, 2086/1 & 2087/1 which is owned by the Theppa Committee in which the petitioner is a president. According to the petitioner, Theppa committee is in possession of the aforementioned properties and the respondent are illegally attempting to take possession of the same from the petitioner committee. In such circumstances, this writ petition is filed to direct the respondent to restore the petitioner's property comprised in S.Nos.2085, 2086/1 & 2087/1 at Mannargudi to its original position.

4. Counter affidavit has been filed by the respondent denying the allegations of the petitioner. They have categorically stated that they are not concerned with S.Nos.2086/1 and 2087/1 and they are concerned only with S.No.2085 which according to them is a Sarkar Poramboke Land and does not belong to the petitioner. It is also their case that as per the revenue records, the property comprised in S.Nos.2085, 2086/1 & 2087/1 has been classified as Sarkar Proamboke. It is also their case that no patta has been issued in favour of the petitioner. It is also stated in the counter affidavit that the road laid in S.No.2085 is in existence for more than 40 years. It is also stated in the counter affidavit that in the year 2006, tender was also called for in order to lay Water Bound Macadam (WBM) road and therefore, the said road was also laid. According to the respondent, the residents of the area have also been using the road for a long number of years. Therefore, according to the respondent, the petitioner has no right to claim right over the property comprised in S.No.2085 at Mannargudi.

5. Heard Mr.P.Sesubalan Raja, learned counsel for the petitioner and Mr.P.Srinivas, learned standing counsel for the respondent.

6. The learned counsel for the petitioner drew the attention of this Court to the sale deed dated 22.11.1917 executed by Mannargudi Municipality in favour of Theppa Committee which the petitioner represents in this writ petition. According to him, the petitioner committee is in possession of the property comprised in S.No.2085, Mannargudi eversince the sale deed dated 22.11.1917. Therefore, according to him, the respondent do not have any right over the said property and they have illegally laid road in the property belonging to the Theppa Committee.

7. Per contra, learned standing counsel for the respondent would submit that the property comprised in S.No.2085, Mannargudi is classified as Sarkar Poramboke in the revenue records and the petitioner does not have any right over the

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same. To this effect, the learned standing counsel for the respondent drew the attention of this Court to the extract from the Permanent Land Register which were filed along with the counter affidavit. The learned standing counsel for the respondent also drew the attention of this Court to the photograph of the subject property comprised in S.No.2085 and would submit that the road which falls in the said property is in existence for more than forty years and it is adjoining a school compound wall.

Discussion:

8. Admittedly, the alleged sale deed executed in favour of the Theppa Committee is of the year 1917. Admittedly, no patta has been issued in favour of the Theppa Committee till date. The respondent has also placed before this Court the extract from the Permanent Land Register for the subject property comprised in S.No.2085 and as seen from the same, it is classified as Municipality Natham Land. In the counter affidavit filed by the respondent, they have not admitted the execution of the sale deed dated 22.11.1917 in favour of the Theppa Committee in which the petitioner claims to be its president.

9. As seen from the counter affidavit as well as after hearing the submission of the respective counsels, this Court is of the considered view that there are several disputed questions of fact involved which cannot be adjudicated by this Court under Article 226 of the Constitution of India. Further, the sale deed is of the year 1917, based on which, the petitioner claims ownership from the year 1917. The petitioner has also not disclosed in the affidavit filed in respect of this writ petition, as to what steps he had taken subsequent to the execution of the sale deed dated 22.11.1917 for mutation of revenue records.

10. The road as seen from the photograph placed by the respondent before this Court also indicate that the road seems to be in existence for several years. When there are disputed questions of fact involved, the only remedy available to the petitioner is to approach the Civil Court, if at all he is aggrieved.

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11. For the foregoing reasons, there is no merit in this writ petition. Accordingly, the writ petition is dismissed. However, liberty is granted to the petitioner to approach the Civil Court to redress his grievance, if any. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

/True Copy//

Sub Assistant Registrar

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To

The Commissioner,
Mannargudi Municipality,
Mannargudi,
Thiruvarur District.

W.P.No.16540 of 2013

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