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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 06.09.2021

Coram

THE HONOURABLE MR. JUSTICE R.MAHADEVAN

Writ Petition Nos. 17730 and 17731 of 2016
and
WMP.No.15424 of 2016

Mangammal .. Petitioner in W.P.No.17730
V. Raja .. Petitioner in W.P.No.17731

Versus

1.Revenue Divisional Officer,
Dharmapuri.

2.The Tahsildar,
Palacode
Dharmapuri District - 636 808.

3.The Inspector of Police,
Land Grabbing Cell,
O/o Superintendent of Police,
Dharmapuri,
Dharmapuri District.

4.Kandan ...Respondents in both WPs.

Writ Petitions filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus forbearing the respondents 1 to 3 in any manner interfering with petitioners possession and enjoyment or dispossess the petitioners from the residential house bearing Door No.3, comprised in S.No.209/7, situated at Vediappan Kootai, Balana Halli Pudur Village, Hunmanthapuram Post, Palacode Taluk, Dharmapuri District - 638 802.

For Petitioner
in both WPs : Mr.G.Ethirajulu

For Respondents : Mr.Stalin Abhimanyu
in both WPs Government Counsel



COMMON ORDER

The petitioners have come up with these writ petitions seeking to issue a Writ of Mandamus forbearing the respondents 1 to 3 from interfering with their possession and enjoyment or dispossess them from their residential house bearing Door No.3, comprised in S.No.209/7, situated at Vediappan Kootai, Balana Halli Pudur Village, Hunmanthapuram Post, Palacode Taluk, Dharmapuri District - 638 802.

2. According to the petitioners, the agricultural land comprised in S.No.209/7, admeasuring 1.00 acres, situated at Hanumahthapuram Village, Palacode Taluk, Dharmapuri originally belongs to Battappan and his brother Kolanthai Gounder and their names were mentioned in the A-Register. In respect of the above said property, a patta was issued on 13.7.1974 in the name of one Vettarayan. The petitioner in W.P.No.17730 of 2016 is the wife of Vettarayan and the petitioner in W.P.No.17731 of 2016 is the great grand son of said Battappan through his father Vediappan. While so, the second respondent issued a patta in the name of one Kandan, who is the son of Late Kolanthai Gounder without mentioning the names of the legal representatives of deceased Battappan based on UDR Patta. On coming to know about the same, the petitioners made representation to the respondents and on receipt of the same, the first respondent vide his proceedings in O.Mu.9626/2015/A3, dated 27.10.2015 directed the second respondent to conduct an enquiry and submit a report to him. In spite of receipt of the said order, the second respondent has not taken any steps to conduct enquiry. Therefore, the petitioners filed W.P.Nos. 40454 and 40455 of 2015 before this Court and the same were allowed by this Court on 22.12.2015. Immediately, the petitioners, by representation dated 08.02.2016 called upon the respondents 1 and 2 to comply with the order passed by this Court, but till date no action has been taken on the said representation. On the other hand, on 04.05.2016, the third respondent, who has no jurisdiction to conduct any enquiry, based on the complaint given by the 4th respondent, called for the petitioners to attend an enquiry even without issuing notice/summons.

3. It is the grievance of the petitioners that due to the inaction on the part of the respondents 1 and 2 in taking action in terms of the order of this Court dated 22.12.2015 made in W.P.Nos.40454 & 40455 of 2015, the third and fourth respondents are now threatening the petitioners and attempting to demolish the house where they are living. Further, the fourth respondent is attempting to mortgage the said property, thereby alienating the same to some third parties. Therefore, the petitioners have filed the present writ petitions for the aforesaid relief.



4. On notice, the learned Government Advocate appearing for the respondents submitted that in the earlier round of litigation, this Court, by order dated 22.12.2015 in W.P.Nos.40454 and 40455 of 2015, passed the following order;

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'4. Considering the above and without going into the facts of the case, a direction is issued to the respondent No.2 to comply with the memo dated 27.7.2015, issued by the respondent No.1 in O.Mu.9626/2015/A3M, by filing the report after due enquiry within a period of eight weeks from the date of receipt of a copy of this order. After receipt of the same, the respondent No.1 shall consider and pass appropriate orders on the pending representation dated 3.10.2015, within a period of eight weeks from the date of receipt of copy of this order after affording an opportunity of hearing to the petitioner and third parties, including the private respondent. It is made clear that the notice will have to be issued to all the interested parties, including those in whose names the patta stands as of now.'

5. By pointing out the above order passed by this Court, the learned Government Counsel would submit that there is a dispute between the petitioners and the fourth respondent herein with respect to inclusion of their names in the Patta. The rights of the parties to get included in the Patta has to be established only before the competent Civil Court and therefore, these writ petitions are not maintainable. The learned Government Counsel therefore prayed for dismissal of these writ petitions.

6. Heard the learned counsel for both sides. Admittedly, there is a civil dispute between the petitioners and the fourth respondent with respect to the land in question. While the petitioners claim right over the said land, the fourth respondent disputes the same. Such disputes between the petitioners and the fourth respondent cannot be examined by this Court in exercise of power under Article 226 of The Constitution of India.

7. It is brought to the notice of this Court that the third respondent, who has no right to deal with such dispute, is said to be interfering with the peaceful possession of the petitioners. Having regard to the above submission, this Court hereby directs the third respondent not to interfere with the possession of the petitioners whatsoever, without following due process of law. At the same time, the petitioners and the fourth respondent are directed to work out their remedy by



approaching the competent Civil Court to get their right over the property in question.

8. Accordingly, by granting liberty to the respective parties, these writ petitions are disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

msr/rsh

To

1. Revenue Divisional Officer,
Dharmapuri.
2. The Tahsildar,
Palacode
Dharmapuri District - 636 808.
3. The Inspector of Police,
Land Grabbing Cell,
O/o Superintendent of Police,
Dharmapuri,
Dharmapuri District.

+lcc to Mr.G.Ethirajulu, Advocate, S.R.No.45420
+lcc to the Government Pleader, S.R.No.45186

WP Nos.17730 & 17731/2016

RSI (CO)
CT/13/10/2021