



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.08.2021

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.NO.6835 OF 2019

1. Sarodja
2. Vidgeya Coumar
3. Poobalan
4. Arandam Murthy

... Petitioners

..Vs..

1. The District Collector,
Puducherry.
2. The Tahsildhar, Villianur Taluk,
Puducherry.
3. The Villianur Commune Panchayat,
rep. by its Commissioner, Villianur,
Puducherry.
4. The Junior Engineer,
The Villianur Commune Panchayat,
Villianur, Puducherry.

.... Respondents

Prayer:

The Writ Petition is filed under Article 226 of the Constitution of India, seeking to issue a Writ of Certiorarified Mandamus, calling for the records relating to the order bearing No.10513/B2/DRDM/2016, dated 19/01/2018 on the file of the first respondent and quash the same and consequently, direct the first respondent to grant extreme western narrow stretch of unassessed Waste land bearing R.S.No.21/1, Sedarapet Village, Villianur Taluk, Puducherry measuring 0.02.09 HAC under Rule 3(2) of the Pondicherry Land Grant Rules 1975 to them on payment of its market value to it and also on the ground of easement of necessity for using the same as the only access to enter their absolute Agricultural Land bearing S.No.63/1 in Agasampattu Village, Vanur Taluk, Villupuram District in the State of Tamilnadu, measuring 13 Acres and cultivate the same within the time that may be fixed by this court and forbearing the respondents from dispossessing them from the said narrow stretch of land still such grant.



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For Petitioner : Mr.R.Sreedhar

For Respondents : Ms.N.Mala, Government Pleader
(Puducherry)
Assisted by Mr.A.Alexander,
Govt.Advocate

O R D E R

The petitioners have filed this writ petition praying to quash the order dated 19.01.2018 passed by the first respondent and consequently, direct the first respondent to assign a land in R.S.No.21/1, Sedarapet Village, Villianur Taluk, Puducherry measuring 0.02.09 HAC under Rule 3(2) of the Pondicherry Land Grant Rules 1975 in favour of them, on payment of its market value and also forbearing the respondents from dispossessing them from the said narrow stretch of land still such grant.

2.According to the petitioners, one N.Oulaganadane, who was the husband of the first petitioner and the father of the petitioners 2 to 4, was the absolute owner of the agricultural land in S.No.63/1 measuring to an extent of 13 acres situated at Agasampattu Village, Vanur Taluk, Villupuram District. The only access available to him to enter into his agricultural land from Pondy - Mailam Road is an unassessed waste land measuring to an extent of 0.42.50 HAC situated in S.No.21/1 at Sedarapet Village, Villianur Taluk of Union Territory of Puducherry and hence, he was in possession and enjoyment of the same only to an extent of 0.02.09 HAC, which prompted the second respondent to issue a notice under section 7 of the Puducherry Land Encroachment Act 1970 calling upon him to show cause as to why penalty should not be imposed on him. Subsequently, an order dated 15.09.2004 was passed by the second respondent imposing penalty on him. While so, the said Oulaganadane died on 10.07.2008 and the subject property was inherited by the petitioners. They submitted a petition on 16.10.2015 to the first respondent requesting to grant the said unassessed waste land for their possession and enjoyment upon payment of its market value. When the things stood thus, the third respondent proposed to construct a cremation shed in the said unassessed waste land, which forced the petitioners to file WP.No.36727 of 2015. By order dated 23.02.2016, the said writ petition was disposed of, directing the respondents to consider the representation given by the petitioners and take a decision at the earliest and to maintain status quo obtaining on that date till a decision is taken by the respondents. Pursuant to the same, the petitioners submitted a representation dated 29.02.2016 to the respondents 1 and 2. However, the first respondent has passed an order dated 19.01.2018 rejected the claim of the petitioners. Therefore, this writ petition.



3. Heard both sides and perused the materials placed before this court.

4. It is seen from the communication dated 10.11.2020 sent by the petitioners to the Sub Collector, Revenue (South), Puducherry that due to the pendency of the case, the compound wall for the burial ground cannot be completed and hence, the local people requested the petitioners to find an amicable solution. Based on the same, the petitioners expressed their willingness to withdraw the case if the pathway is assigned to them in R.S.No.21/1 of Sedarapet Revenue Village, as there is no other access to their land in Agasampet Village. Following the same, the Commissioner, Villianur commune panchayat, Villianur, through his communication dated 17.02.2021 addressed to the Revenue Officer, District Collectorate, Puducherry, stated no objection to spare a portion of land on the western part of R.S.No.21/1 to a width of 6.10m for the usage of public and the petitioners as common pathway. Thereafter, upon inspection, the Tahsildar, Taluk Office, Villianur, sent a report to the Sub collector, (Revenue) South, Villianur to the effect that the proposed pathway has no disturbance in the remaining land on the eastern portion of R.S.No.21/1. The said recommendation was accepted and a report dated 06.08.2021 was filed by the Deputy Collector, Department of Revenue and Disaster Management, Puducherry to this court through Government Pleader for Puducherry. The relevant paragraphs of the said report, are usefully extracted below:

"3. The land parcel on the western most part of the Government Poramboke land bearing R.S.No.21/1 of Sedarapet Revenue Village, Villianur Taluk, Puducherry by the Villianur Commune Panchayat, could be used as passage to the land situated in Tamilnadu by the petitioner and common public.

4. The westernmost part of the Government poramboke land bearing R.S.No.21/1 of Sedarapet Revenue Village measuring to an extent of 52.16 sq.mt (width of 6.1m on North & South and length of 8.2m and 8.9m on East and West respectively) will be left out as passage and the remaining portion will be compounded by the Villianur Commune Panchayat for utilisation of burial ground.

5. Further, it is reiterated that the part of the Government land left vacant to an extent of 52.16 sq.mt will not be specifically assigned to the petitioners herein and will stand as Government



Poramboke only and it is prerogative of the Government to decide on the purpose of utilization the said Government land from time to time."

(Emphasis supplied)

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5. In the light of the aforesaid report, this court is of the view that no further orders need be passed herein, as the requirement of the petitioners has been met with.

6. With the aforesaid observation, this writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

mst

To

1. The District Collector,
Puducherry.
2. The Tahsildhar, Villianur Taluk,
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3. The Villianur Commune Panchayat,
rep. by its Commissioner, Villianur,
Puducherry.
4. The Junior Engineer,
The Villianur Commune Panchayat,
Villianur, Puducherry.

+2cc to Mr.R.Sreedhar, Advocate, S.R.No.34672
+1cc to the Government Pleader, S.R.No.39840

W.P.No.6835 of 2019 and
WMP No.7607 of 2019

RR(CO)
CS/17/09/2021