

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.03.2021

CORAM : JUSTICE N.SESHASAYEE

W.P.No.10388 of 2020
and WMP.Nos.12637 & 12638 of 2020

1.A.R.Ibrahim
2.A.R.Shahabudeen
3.A.R.Akbar
... Petitioners
Vs.

1. The Revenue Divisional Officer,
Chengalpattu Taluk,
Chengalpattu.
2. The Tahsildar,
Chengalpattu Taluk,
Chengalpattu.
3. The President,
Nedungundram Panchayat,
Chengalpattu District.
... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus to direct the respondents 1 and 2 to prevent the 3rd respondent from interfering with the petitioner's peaceful enjoyment of the lands measuring an extent of Acre 0.73 cents out of Acre 0.93 cents comprised in Survey No.3/1, situated at No.10, Puthur Village, Chengalpet Taluk and Kancheepuram District, Kattangulathur Panchayat Union limits and Nedungundram Panchayat limits, lies within the Chennai South Registration District and Tambaram Sub Registration District.

For Petitioners : Mr.V.Karthikeyan
For Respondents : Mr.E.Balamurugan
Special Government Pleader

ORDER

The present petition is filed for a direction that the respondents shall not interfere with the petitioners' peaceful enjoyment of land measuring 0.73 cents in Survey No.3/1 of Puthur Village, Chengalpet Taluk, Kancheepuram District. The said survey number is stated to have 0.93 cents.

2. The facts are as follows :

- The petitioners' mother Habiba purchased the aforesaid property under Document No.5860/1984 on the file of Tambaram Sub Registry. Habiba died on 15.12.2011, whereupon, the property devolved on her children.
- The petitioners had a brother, known by the name Rahim, and he died on 16.11.1990. With no heirs other than the present petitioners herein to succeed to his share, the petitioners moved the Revenue Authorities for transfer of patta in their name, which originally stood in the name of the vendor of his mother.
- According to the learned counsel for the petitioner, the Revenue Authority found some discrepancy in the extent over which the petitioners claim right, and the petitioners have decided to purchase peace by non-pressing their right over this alleged excess right. In essence, the petitioners limit their claim of their title over 73 cents, out of 93 cents in No.3/1 of Puthur Village.
- Be that as it may, the third respondent has been dumping garbage on their property. The typedset of papers contain several photographs, and they indicate how the patta land is being converted into a Panchayat garbage yard.

3. The learned counsel for the petitioners took this Court through the proceedings of the Revenue Divisional Officer in Na.Ka.No.594/2017/Aa2 dated 20.09.2018, in which the first respondent, the Revenue Divisional Office has made his recommendations for granting patta to the petitioner for 73 cents, based on their pre-existing title. This document was not made part of typed set of papers, but it has been circulated to the learned Special Government Pleader, who incidentally also appears for the Panchayat.

4. The learned counsel for the petitioners added that the petitioners necessarily have to go in for revenue sub-division of the property since the property to which they would be entitled to patta is only 73 cents, out of 93 cents.

5.1 In the counter affidavit filed by the Tahsildar, the second respondent, it is contended without any supporting material that the property in S.No.3/1 of Puthur Village is a Poromboke land.

5.2 This is an amazing statement to receive, since it is on his report the Revenue Divisional Officer, the first respondent, has made the recommendations. Apparently, the Tahsildar contradicts himself so brazenly.

6. In this circumstances, this Court necessarily have to allow the writ petition, directing the third respondent not to dump any garbage that it collects, into the property of the petitioners, or to interfere with the possession over the petitioners' land. If however, the third respondent has any issue on title, which is least likely in the context of the proceedings of the Revenue Divisional Officer and the title documents of the petitioners, it has to be agitated before the appropriate civil Court.

7. In the result, this writ petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

DS

To:

1. The Revenue Divisional Officer,
Chengalpattu Taluk,
Chengalpattu.
2. The Tahsildar,
Chengalpattu Taluk,
Chengalpattu.
3. The President,
Nedungundram Panchayat,
Chengalpattu District.

+1cc to the Government Pleader, S.R.No.17149

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