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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

W.P.No.28602 of 2019
and
W.M.P. No. 28352 of 2019

Thangavel (deceased)

Palanisamy,
S/o. Late Thangavel
(P2-Substituted as LR of deceased sole
respondent vide order dated 05/07/2021) ...Petitioner

Vs.

1.The State of Tamil Nadu,
rep. By its Secretary to Government,
Revenue Department,
Fort St. George,
Chennai.

2.The District Collector,
Perambalur District,
Perambalur.

3.The Tahsildar,
Veppanthattai Taluk,
Veppanthattai,
Perambalur. ...Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, forbearing the respondents from in any manner forming pathway / road in the lands of the petitioner in Survey Nos. 278/9A, 278/8A and 278/7B2, No.18, Pandagapadi Village, Veppanthattai Taluk, Perambalur District and remove the sand/debris already dumped into the petitioner's land.



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For Petitioner : Mr.D.Bharatha Chakravarthy

For Respondents : Mr.Yogesh Kannadasan,
Government Advocate

O R D E R

(The case has been heard through video conference)

The Writ Petition has been filed forbearing the respondents from forming any pathway in the lands of petitioner in Survey Nos. 278/9A, 278/8A and 278/7B2 situated at No.18, Pandagapadi Village, Veppanthattai Taluk, Perambalur District.

2. The grievance of the petitioner is that, he is the owner of property in the above said survey numbers. Originally, the land was belonged to one Kulanthai Padayachi. After his death, one of his legal heirs sold the property in favour of petitioner in the year 1975. Right from the purchase, he is in possession and enjoyment of the property and patta was issued in his name, Chitta and adangal was also issued in the name of petitioner. Now, all of a sudden, the respondents are taking steps to lay pathway in the petitioner's patta land, hence, he has made a representation to the authorities not to lay any road. Thereafter, he came to know that the land in Survey No.278/9 has been sub-divided into Survey No. 278/7B2 during the UDR Scheme and the pathway was marked in the field measurement book. However, in the original revenue records, there is no sub-division and there is no pathway provided for the above said survey number. In the said circumstances, without any proper acquisition, the respondents cannot lay pathway in the petitioner's land. Hence, the present writ petition has been filed by the petitioner.

3. The 3rd respondent Tahsildar had filed a counter affidavit stating that, Survey No.278/7B Part is classified in the village accounts, viz., Settlement 'A' register, as ryot poramboke to an extent of 0.06.5 ares and it is owned by the petitioner and one Periyasamy Padayachi. However, in the field map for the above said survey number, there is a pathway in the sub-divided Survey No.278/7B2 and the same exists in Boosthuthi.



Hence, the petitioner cannot claim that, the land has not been classified as a pathway and accordingly, the prayer sought by the petitioner cannot be granted.

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4. Mr.D.Bharatha Chakravarthy, learned counsel appearing for petitioner would submit that, the petitioner had purchased the property in the year 1975 and patta was also granted in his favour. At that time, in the revenue records as well as field map, there is no pathway and there is no sub-division. Subsequently, without any notice to the petitioner, now the above said survey number said to have been sub-divided and the petitioner's patta land has been marked as pathway. However, before doing sub-division, no enquiry was conducted and no notice was given to the petitioner. Hence, the very sub-division itself is illegal and based on that, the respondents cannot lay pathway in the petitioner's land.

5. Today, when the matter taken up for hearing, the 3rd respondent Tahsildar, appeared before this court through video conference and submitted that, during the UDR Scheme, the land has been sub-divided and a separate survey No.278/7B2 has been assigned to an extent of 0.06.5 ares, subsequently, the same has been marked in the field map and he has produced copy of settlement 'A' register and field map showing that the land has been sub-divided and marked as pathway.

6. Mr. D.Bharatha Chakravarthy, learned counsel appearing for petitioner would content that, while the sub-division was made during the UDR scheme, no enquiry was conducted and no notice was given to the petitioner. In the said circumstances, he may be given liberty to challenge the sub-division made during the UDR Scheme before the authorities.

7. Considering the above said request that, the sub-division has been made during UDR scheme, and an extent of 0.06.5 ares has been earmarked as a pathway, liberty is granted to the petitioner to challenge the sub-division before the District Revenue Officer. As the land has been sub-divided and earmarked as a pathway, at this stage, the prayer sought by the petitioner cannot be granted. Accordingly, this Writ Petition stands disposed of with liberty to the petitioner to challenge



the sub-division before the District Revenue Officer, Perambalur. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

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Sd/-
Assistant Registrar (CS-VI)

// True Copy //

Sub Assistant Registrar

rpp

To

1.The Secretary to Government,
State of Tamil Nadu,
Revenue Department,
Fort St. George,
Chennai.

2.The District Collector,
Perambalur District,
Perambalur.

3.The Tahsildar,
Veppanthattai Taluk,
Veppanthattai,
Perambalur.

4.The District Revenue Officer,
Perambalur.

+1cc to M/s.T.Saikrishnan, Advocate SR.No.34868

+1cc to the Government Pleader SR.No.35324

W.P.No.28602 of 2019

GMI(CO)
RVM(25/08/2021)