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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.07.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
AND
THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

W.P.NO.30674 OF 2018

AND

W.M.P.NOS.35776, 35777 AND 35780 OF 2018

1.K.Chinnadurai
2.C.Duraisamy
3.V.Balaraman
4.P.Govindasamy
5.Venkataraman
6.M.Thirupathi

... Petitioners

Vs.

1.Perumal

2.The District Collector
Krishnagiri District
Krishnagiri.

3.The District Revenue Officer
Krishnagiri District
Krishnagiri.

4.The Revenue Divisional Officer
Krishnagiri District
Krishnagiri.

5.The Tahsildar
Krishnagiri Taluk
Krishnagiri.

6.The Block Development Officer /Commissioner
Krishnagiri Panchayat Union
Krishnagiri
Krishnagiri District.

7.The District Elementary Educational Officer
Krishnagiri District
Krishnagiri.



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8.The Head Master
Panchayat Union Middle School
Sembadamuthur
Krishnagiri Panchayat Union
Krishnagiri District.

9.The Inspector of Police
Krishnagiri Taluk Police Station
Krishnagiri
Krishnagiri District.

10.Vasantha

11.P.Srinivasan

12.P.Shanmugam

13.Mrs.Shanthi
District Revenue Officer
Sembadamuthur Post and Village
Krishnagiri Taluk
Krishnagiri District.

14.Murugesan ... Respondents

PRAYER:-

Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Mandamus, directing the Respondents to implement the decision in minutes dated 10.06.2017 presided by the Fourth Respondent and decision in Na.Ka.No. 3418/2017/G dated 31.08.2017 passed by the Fourth Respondent and remove the encroachments put up by the Respondents 1, 10, 11, 12 over the property comprised in Survey No.25/2 to the extent of 0.66 cents and S.No. 25/1 to the extent of 0.25 cents in Sembadamuthur Village, Krishnagiri within a time frame to be fixed by this Court.

For Petitioner : Mrs.J.P.Dhanya Sree
For M/s.P.Wilson Associates

For Respondents : Mrs. R.Anitha
State Government Counsel
(For R2 to R7 & R9)

Mr.M.R.Jothimanian
(For R1 and R10 to R12)



O R D E R

(Order of the court was made by N.KIRUBAKARAN.J.,)

The matter was heard through "Video Conference".

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2. The Writ Petition has been filed seeking for a direction directing the Respondents to implement the decision taken in the meeting convened on 10.06.2017, presided over by the Fourth Respondent-Revenue Divisional Officer, Krishnagiri, with regard to the removal of encroachments allegedly put up by Respondent Nos. 1, 10, 11 and 12 over the lands comprised in Survey No. 25/2 having an extent of 0.66 cents and in Survey No. 25/1 having an extent of 0.25 cents, which totally comes 0.91 cents situated at Sembadamuthur Village, Krishnagiri.

3. The Petitioners contends that they bought the property comprised in Survey No. 25/2 having an extent of 0.66 cents and in Survey No.25/1 having an extent of 0.25 cents by virtue of Sale Deed dated 08.10.1996 from one Thiru.T.P.Rajagopalan. On 26.03.1997, the Petitioners executed a Gift Deed in favour of the Commissioner of Municipality, Krishnagiri gifting the lands comprised in survey No.25/2 having an extent of 0.66 cents for the purpose of constructing a School, Hospital and other buildings for public purposes. Subsequently, 5 buildings have been constructed during the year 1997-98, out of which, three buildings are used as School, Village Administrative Office and woman welfare wing, which is having an extent of 0.25 cents. However, out of 0.66 cents comprised in Survey No.25/2, remaining 0.40 cents is lying as vacant land. Even though the lands had been gifted to Commissioner Municipality, Krishnagiri, the First Respondent fraudulently sold the aforesaid property comprised in Survey No. 25/2 vide document No.2472 of 2007 to his wife viz., Tenth Respondent. Thereafter, the First Respondent also constructed a house in the said encroached land and got the Survey No.25/2 sub divided into Survey Nos.25/2A and 25/2B. Further, the Survey No. 25/2A got mutated in favour of the First and Tenth Respondents and Survey No. 25/2B has also got mutated in favour of the First Respondent and 8 others in the Revenue records. In view of that, they became the joint owners, as per File No.8A/21/1419 dated 13.07.2009. Subsequent to that, Survey No.25/2A was again sub divided into Survey Nos. 25/2A1 and 25/2A2, like wise, Survey No. 25/2B was sub divided into Survey Nos.25/2B1, 25/2B2, 25/2B3 and 25/2B4. Accordingly, the First Respondent has been manipulating the Revenue records and has been executing deeds in respect of the aforesaid Government Land comprised in Survey No.25/2.

4. However, a meeting was convened on 10.06.2017, in which villagers of Sembadamuthur Village as well as Petitioners



participated and decisions taken in that meeting is extracted hereunder :-

"(a) Land admeasuring 0.70.05 hectares under Survey No.25/2 in Sembadamuthur Village, which was wrongly, sub-divided as Survey Nos.25/2A1, 25/2A2, 25/2B1, 25/B3 and 25/B, was to be struck off, on the basis of the Application made in that regard by the Block Development Officer (BDO) of Krishnagiri, the Sixth Respondent.

(b) Mutation with regard to Patta of the land must be registered in the name of Commissioner, Krishnagiri as per the Gift Deed of Settlement.

(c) The Patta granted in favour of the individuals in the said land to be struck off, in this behalf relevant communication to be sent by Block Development Officer, Sixth Respondent to Joint Registrar, Krishnagiri.

(d) After the land is registered in the name of the Commissioner, Krishnagiri, all the encroachers to be removed."

Based on the decision taken in the meeting on 10.06.2017, presided by the Revenue Divisional Officer /Fourth Respondent, the Fourth Respondent passed an order in Na.Ka.No. 3418/2017/G dated 31.08.2017, by which the Revenue Divisional Officer found that there are disputed facts with regard to extent and boundaries of the properties claimed by the Petitioners as well as the Respondents and therefore, the parties were directed to approach the competent civil Court. The said order is challenged before this Court.

6. Heard Mrs.J.P. Dhanya Sree of M/s.P.Wilson Associates, Learned Counsel appearing for the Petitioner, Mrs.R.Anitha, Learned State Government Counsel appearing for the Second to Seventh and Ninth Respondents and Mr.M.R.Jothimanian, Learned Counsel appearing for the First, Tenth to Twelfth Respondents, and perused the materials placed on record, apart from the pleadings of the parties.

7. It is evident from the impugned order passed by the Revenue Divisional Officer, after perusing the records available, especially, the Gift deed dated 26.03.1997 vide document No. 312 of 1997, factually found that there are disputed facts with regard to extent and boundaries of the properties claimed by the Petitioners as well as the Respondents and the parties were also directed to approach the competent



civil Court to work out their remedies in the manner known to law. When there are disputed question of facts involved, the appropriate remedy is only to approach the competent civil Court, where parties could adduce evidence and prove their respective case. Article 226 cannot be invoked and no rowing enquiry could be made with regard to the disputed question of facts. Therefore, this Court does not find any infirmity or illegality in the order passed by the Revenue Divisional Officer, which is confirmed.

8. Though Mr.M.R.Jothimanian, Learned Counsel appearing for the Private Respondents submits that they have already approached the civil court, seeking certain reliefs, it is always open to Parties to approach competent civil Court as per the orders passed by the Revenue Divisional Officer to settle disputes between them.

9. With the above, this Writ Petition is disposed of. Consequently, connected Miscellaneous Petitions are closed. No costs.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

Maya

To

- 1.The District Collector
Krishnagiri District
Krishnagiri.
- 2.The District Revenue Officer
Krishnagiri District
Krishnagiri.
- 3.The Revenue Divisional Officer
Krishnagiri District
Krishnagiri.
- 4.The Tahsildar
Krishnagiri Taluk
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- 5.The Block Development Officer /Commissioner
Krishnagiri Panchayat Union
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6.The District Elementary Educational Officer
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7.The Head Master
Panchayat Union Middle School
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Krishnagiri District.

8.The Inspector of Police
Krishnagiri Taluk Police Station
Krishnagiri
Krishnagiri District.

+1cc to M/s.P.Wilson Associates, S.R.No.31487

W.P.No.30674 of 2018

RK (CO)
PR (12/08/2021)