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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.02.2022

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

AND

THE HONOURABLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

W.P.No.1612 of 2022

1.P.Vijaya

2.Krishnamurthy

.. Petitioners

Versus

1.The Revenue Divisional Officer,
Ponneri, Thiruvallur District.

2.The Tahsildar,
Gummudipoondi,
Tiruvallur District.

3.The District Revenue Officer,
Tiruvallur District.

.. Respondents

Prayer: Writ Petition has been filed under Article 226 of the Constitution of India seeking for issuance of a writ of certiorari to call for the records of the first respondent passed in Na.Ka.No.01979/2021/A2, dated 07.10.2021 and quash the same as illegal.

For Petitioners : Mr.K.Kulandai Velu

For Respondents: Mr.A.Selvendran, Spl.GP

ORDER

(Order of the Court was delivered by T.RAJA, J.)

The petitioners have filed the present writ petition challenging the impugned order passed by the Revenue Divisional Officer, Ponneri, Thiruvallur District/first respondent herein in Na.Ka.No.01979/2021/A, dated 07.10.2021, directing the Panchayat President, Pallavakkam Panchayat, Kanlur Village, to initiate action for removal of encroachment in S.Nos.132/2 & 101/2, Kanlur Village.

2. Mr.K.Kulandai Velu, learned counsel for the petitioners, submitted that the first petitioner is the absolute owner of the



property comprised in S.Nos.132/5F12, 132/3G, 101/3B1 Kanlur Village, Gummudipoondi Taluk, and similarly, the second petitioner is the absolute owner of the property comprised in S.Nos.101/1B, 102/1 Kanlur Village, Gummudipoondi Taluk. As per the old FMB Sketch, S.Nos.132/2 and 101/2 of Kanlur Village, are earmarked as Battai (pathway), however, in the said land, road does not exist. On the other hand, petitioners' land comprised in S.Nos.101/3B1, 101/1B, adjacent to the battai land, are used as road. It is further stated that the petitioners' ancestors entered into an arrangement agreeing to use Batta land by them and to lay the road on their land and accordingly, road was laid in the petitioners' land, namely, S.Nos.101/3B1, 101/B and Battai lands in S.Nos.132/2 & 101/2 are used for agricultural purpose by the petitioners for more than 70 years, but, it was not reflected in the revenue records.

3. While the matter stood as above, the District Revenue Officer, Thiruvallur District, vide proceedings dated 02.04.2018, initiated proceedings for removal of the alleged encroachment on the petitioners' land. Challenging the said proceedings, the petitioners had filed W.P.No.11884 of 2018 and this Court, by order dated 05.06.2018, directed the petitioners to submit a detailed representation to the respondent and on receipt of such representation, the respondent was directed to consider the same in accordance with law. Pursuant to the said direction, the Tahsildar, Gummidipoondi Taluk, conducted an enquiry and forwarded a proposal to the District Revenue Officer, Thiruvallur, on 09.10.2018 stating that the request of the petitioners for exchange of the land is justified. However, instead of approving the said proposal, the Revenue Divisional Officer, Ponneri, vide proceedings dated 18.12.2021, has returned the same to the Tahsildar, Gummidipoondi, to rectify certain defects.

4. It is at this stage, Mr.A.Selvendran, learned Special Government Pleader, for the respondents, submitted that since the Revenue Divisional Officer, Ponneri, has returned the proposal, the Tahsildar, Gummidipoondi, has to rectify defects pointed out in the proceedings dated 18.12.2021 and thereafter, on receipt of fresh proposal, the Government will take a decision thereafter. Therefore, he sought for sufficient time to pass final orders.

5. In view of the above, the Tahsildar, Gummudipoondi, is directed to forward a fresh proposal after rectifying the defects pointed out by the first respondent vide proceedings dated 18.12.2021 within a period of four weeks from the date of receipt of a copy of this order and on receipt of such proposal, within a period of four weeks thereafter, the Revenue Divisional Officer, Gummudipoondi, is directed to forward the same to the



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Commissioner of Land Reforms, Chennai, who shall pass final order within a period of four weeks thereafter. With these directions, the writ petitions stand disposed of. No Costs.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

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To

1.The Revenue Divisional Officer,
Ponneri, Thiruvallur District.

2.The Tahsildar,
Gummudipoondi,
Tiruvallur District.

3.The District Revenue Officer,
Tiruvallur District.

4.The Revenue Divisional Officer,
Gummudipoondi,

5. The Commissioner of Land Reforms,
Chennai.

+2ccs to Mr.R.Karthikeyan, Advocate SR.No.12976

+1cc to Government Pleader SR.No.13062

W.A.No.1612 of 2022

MT (CO)
GMY (31/03/2022)