



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.02.2022

CORAM

THE HONOURABLE Mr. JUSTICE M.DHANDAPANI

WP.No.6058 of 2010 and
MP.No.2 of 2010

1. Kona Ramamoorthy
2. Kona Suba Rao

... Petitioners

Vs

The Settlement Officer-II,
Directorate of Survey and Land Records,
Government of Puducherry,
Puducherry.

... Respondent

Prayer :- Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records relating to the proceedings in No.9471/DOS/ST-II/2009 dated 28.12.2009 on the file of the respondent and quash the same insofar as the petitioners are concerned.

For Petitioner : Mr.V.Elangovan

For Respondent : Mr.J.Kumaran
Additional Government Pleader
(Pondicherry)

O R D E R

This writ petition has been filed to quash the proceedings in No.9471/DOS/ST-II/2009 dated 20.12.2009 on the file of the respondent.

2. The case of the petitioners is that they have purchased the agricultural lands bearing T.S.No.D/2/5/3 in R.S.No.15/1 of No.4, Francetippa Revenue Village, Yanam vide two sale deeds dated 04.03.1988 on the file of the Sub Registrar, Yanam, bearing document Nos.61/88 to 63 of 88 and 66/88 respectively for valuable consideration. From the date of purchase of the above said lands, the petitioners are in possession and enjoyment of the property. Patta, Chitta and adangal have also issued by the revenue officials in favour of the petitioners. The petitioner have been regularly paying the tax till date and the said land is situated between an existing road and Godavari river.



3. That being the situation, in the year 2006, a portion of the aforesaid land was acquired as per the notification under Section 4(1) of the Land Acquisition Act in Pondicherry State vide G.O.Ms.No.120 dated 27.09.2005 by the respondent for the formation of the road. The above said lands were situated between Godavari River and the road. That being the case, the respondent have issued notice to the petitioners to attend an enquiry at the office of the Deputy Tahsildar, Yanam on 22.12.2009. On that day, during enquiry, the petitioners submitted that the survey No.D/2/5/3 for an extent of 2.43.50 H.A.Ce. had been eroded in the river Godavari and the said survey has to be re-classified as a Government Poromboke lands. In this regard, the petitioners were demanded to show the proof of the same. In the said land, the petitioners have planted coconut trees. Further, one Cornel Satchem and V.Baskara Raju have tried to encroach the land and put up a construction for installation of statue. Against which, the petitioners have filed a suit in O.S.no.68/2009 before the Principal District Judge, Puducherry and the same is pending. Hence, there is no necessity for re-classification of the petitioners' land as Government Poromboke lands. Without considering the real facts, the respondent passed an order based on the report of the Deputy Tahsildar, Yanam, vide his proceedings No. 9471/DOS/ST-II/2009 dated 28.12.2009, corrected the entries in the Town Survey Settlement Register under the powers conferred under Section 23(1) of the Pondicherry Settlement Act, 1970 as Government Poromboke Land, without giving opportunity to the petitioners. Challenging the same, the present writ petition has been filed to quash the proceedings.

4. The learned counsel for the petitioner submitted that Since the petitioners are in physical possession and enjoyment of the property from the date of purchase i.e. 04.03.1988, the order of the respondent is factually incorrect as there is no material evidence to show that the petitioners land have been submerged in Godavari River. While enquiry, the respondent have failed to see the patta, chitta and adangal in favour of the petitioners issued by the concerned authorities. That apart, a portion of the petitioners' land were acquired by the Government as per notification under Section 4(1) of the Land Acquisition Act in Pondicherry State vide G.O.Ms.No.120 dated 27.09.2005, is clearly prove beyond any doubt that the petitioners are very much in physical possession and enjoyment of the property and the compensation amount is deposited by the land acquisition officer in favour of the petitioners lying in Court deposit. The learned counsel further submitted that the respondent failed to prove that the petitioners' land have been submerged in Godavari river 30 years back. In fact, the petitioners have purchased the property only on 04.03.1988 and all the government records viz., patta, chitta and adangal were issued by the



government authorities concerned stood in the name of the petitioners. Without considering all these facts, the respondent have passed impugned order and this court may quash the same and allow this petition.

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5. The learned Additional Government Pleader submitted that the Deputy Collector, Yanam had endorsed the report received from the Deputy Tahsildar, Yanam regarding the status of the land at T.S.No.D/2/5/3 situated at 4 Francetippa Revenue Village and the matter has been taken for enquiry under Section 23(1) of Pondicherry Settlement Act read with clause 5 & 14 of the scheme report for effecting land revenue settlement in the Municipal towns of Yanam Region. The existing entry in the concerned Town survey records is an erroneous and instant entry which was effected during the time of Town Survey operation. Therefore, the petition was remanded to the Settlement Officer taking necessary action under the provision of Pondicherry Settlement Act-1970. After receipt of the letter of the Deputy Tahsildar, the Sub-Taluk, Yanam, a team consisting of Assistant Director of Survey, Inspector of Survey and Deputy Surveyor conducted field inspection and submitted a report. A report reveals that during the course of land acquisition proceedings for Ferry road the Government of Pudhucherry developed a Ferry point and road portion in various town survey numbers including the site in question (D/2/5/3). The petitioners' lands and some other lands have submerged in river Godavari includes the land in question on the southern side of ferry road starting from Balayogi Vardha ending at Sivam fountain. Accordingly, the said lands were corrected and classified as Government Poromboke River under powers conferred in Section 23(1) of Pondicherry Settlement Act 1970 and the assessment shall be removed. The learned counsel further submitted that the petitioners have not established before this Court with regard to the title over the property. Hence, the learned counsel prays to dismiss the writ petition.

6. Heard the learned counsel for the petitioners as well as the learned Additional Government Pleader and perused the materials available on record.

7. The facts of the case are not in dispute. Admittedly, when the re-classification proceedings were initiated by the Government of Puducherry, show cause notice was issued to the petitioners and other 46 persons and subsequently, the present impugned order was passed. On perusal of the entire records, it came to know that the petitioners have produced the document over the property relating to T.S.No.D/2/5. However, the petitioners have failed to produce the proof with regard to T.S.No.D/2/5/3. The Government have rightly classified the lands in question as 'Government Poromboke'-River. In the absence of any documentary evidence, the prayer sought for by the



petitioners in the writ petition cannot be maintainable and the said is liable to be quashed.

8. In view of the above discussions, this Court finds no infirmity or illegality in the order passed by the respondent. As such, the writ petition is devoid of merits and liable to be dismissed.

9. Accordingly, this writ petition is dismissed. Consequently, connected miscellaneous petition is closed. No order as to costs.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

The Settlement Officer-II,
Directorate of Survey and Land Records,
Government of Tamil Nadu,
Puducherry.

+1cc to Mr.S.Doraisamy, Advocate, S.R.No.10111

+1cc to the Government Pleader, Puducherry S.R.No.10405

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GSM(CO)
CT 10/03/2022