



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.01.2022

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P. No.8779 of 2010
and M.P.No.1 of 2010

1. K.Saroja
2. K.Senthilkumar

... Petitioners

-Vs-

1. The District Collector,
Namakkal District,
Namakkal.

2. The Revenue Divisional Officer,
Tiruchengode Taluk,
Namakkal District.

3. The Tahsildar,
Tiruchengode Taluk,
Namakkal District.

4. The Block Development Officer,
Tiruchengode Taluk,
Namakkal District.

5. The Block Development Officer,
Mallasamuduram Panchayat Union,
Tiruchengode Taluk,
Namakkal District.
(R5 impleaded as per order dated
06.08.2018 in W.M.P.No.23050
of 2018 in W.P.No.8779 of 2010)

... Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, forbearing the respondents herein and their men and agents, servants claiming through them from interfering with out peaceful possession and enjoyment of the properties in S.F.Nos.3,9 & 11 at Kallupalayam Village, Tiruchengode Taluk, Namakkal District and consequentially directing the third respondent to issue patta in favour of the petitioners for the properties in S.F.No.3,9 & 11 at kallupalayam Village, Tiruchengode Taluk, Nammakkal District by considering their representation dated 17.11.2009.



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For Petitioners: Mr.Ma.P.Thangavel

For Respondents

For R1 to R3: Mr.V.Jeevagiridharan

Additional Government Pleader.

For R4 & R5 : Mr.D.Suryanarayanan

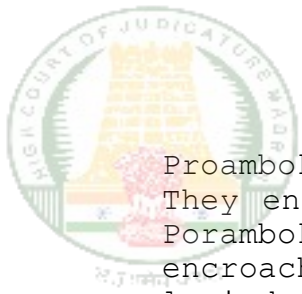
ORDER

The Writ Petition has been filed to forbear the respondents herein and their men and agents, servants claiming through them from interfering with out peaceful possession and enjoyment of the properties in S.F.Nos.3,9 & 11 at Kallupalayam Village, Tiruchengode Taluk, Namakkal District and consequentially directing the third respondent to issue patta in favour of the petitioners for the properties in S.F.No.3,9 & 11 at kallupalayam Village, Tiruchengode Taluk, Nammakkal District by considering their representation dated 17.11.2009.

2. The case of the petitioners is that they owned property comprised in survey Nos.8 & 10 situated at Kallupalayam Village, Tiruchengode Taluk, Namakkal District. Their predecessors were in possession and enjoyment of the property comprised in S.F.No.3 ad measuring 0.39.5 hectare and S.F.No.9 ad measuring 0.17.5 hectare and S.F.No.11 ad measuring 0.52.0 hectare situated at the Kallupalayam village for the past several years. After demise of their predecessors, the petitioners are in possession and enjoyment of the property and cultivating the same.

3. In the year 1957, there were issued with notice under Section 7 of the Tamil Nadu Land Encroachment Act, 1905 for the subject land. Originally the subject lands were classified as Tharisu Nilam in the Revenue Records. Subsequently, it was classified as Vellavari lands, which means that the land through which water flow from the river. Adjacent lands situated around the land comprised in S.F.Nos.3,9 & 11, are private lands and they were issued patta. However, the revenue authorities refused to issue patta for the land comprised in Survey Nos.3,9 & 11. Therefore, the petitioners made detailed representation dated 17.11.2009, before the authority and the same has not been considered till today. Hence, the present Writ petition.

4. On perusal of the counter filed by the third respondent revealed that the land comprised in survey Nos.8 and 10 are patta land belonged to the petitioners. Further the land comprised in survey Nos.3,9 & 11 are classified as Vellavari



Proamboke situated at northern side of the petitioners' land. They encroached the said lands which is classified as Vellavari Poramboke, which obstruct of flow of rain water and the encroachment of the petitioners is treated as objectionable and levied penalty, since the same has been cultivated by them. In fact, they were issued notice under Section 7 of the Tamil Nadu Land Encroachment Act, 1905 to remove the encroachment. However, the petitioners made representation dated 17.11.2009 for issuance of patta.

5. Heard Mr.Ma.P.Thangavel, learned counsel appearing for the petitioners, Mr.V.Jeevagridharan, learned Additional Government Pleader appearing for the respondents 1 to 3 and Mr.D.Suryanarayanan, learned counsel appearing for the respondents 4 & 5.

6. The learned Additional Government Pleader produced the letter sent by the third respondent dated 18.11.2022 along with detailed plan and on written instruction, he submitted that the subject land comprised in S.F.Nos.3,9 & 11 situated at Kallupalayam Village, Tiruchengode Taluk, Namakkal District, were classified as Vellavari Poramboke and it nothing but water body. That apart in the land comprised in survey No.10 in the same village to an extent of 0.08.75 hectare, there was a mud road even before 20 years and subsequently on the request of the petitioners, the fourth respondent upgraded the same as Thaar road. The entire remaining extent of land are agricultural lands and it is cultivated by the petitioners. Therefore, the petitioners is not entitled for any compensation for the Thaar road laid by the fourth respondent.

7. Insofar as the subject land viz., the land comprised in survey Nos.3,9 & 11 are concerned, the same are classified as Vellavari Poramboke. The petitioners encroached the land to an extent of 0.05.0 hectare out of total extent of 0.39.5 hectare land comprised in S.No.3, in which, the petitioners planted palm tree, coconut trees and other vegetable crops. In respect of the land comprised in survey No.9 to an extent of 0.17.5 hectare, the entire land was encroached by the petitioners by planting coconut trees and palm trees. In respect of the land comprised in survey No.11, out of total extent of 0.52.0 hectare, the petitioner occupied 0.22.0 hectare and cultivated the said land with onion and other crops. Since, the land comprised in survey Nos.3, 9 & 11 are classified as Vellavari Poramboke land, patta cannot be issued in favour of the petitioners. Therefore, the petitioners are not entitled for grant of patta, since they were already issued notice under Section 7 of the Tamil Nadu Land Encroachment Act, 1905. Hence, the Writ Petition is devoid of merits and is liable to be dismissed.



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8. With the above directions, the Writ Petition stands dismissed. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

Sd/-

Assistant Registrar(CS-VI)

//True copy//

Sub Assistant Registrar

rts

To

1. The District Collector,
Namakkal District,
Namakkal.
2. The Revenue Divisional Officer,
Tiruchengode Taluk,
Namakkal District.
3. The Tahsildar,
Tiruchengode Taluk,
Namakkal District.
4. The Block Development Officer,
Tiruchengode Taluk,
Namakkal District.
5. The Block Development Officer,
Mallasamuduram Panchayat Union,
Tiruchengode Taluk,
Namakkal District.

+1cc to Mr.Ma.P.Thangavel, Advocate SR.No.5482

+1cc to Government Pleader SR.No.5651

W.P. No.8779 of 2010
and M.P.No.1 of 2010

KSM(CO)
GMY(22/02/2022)