



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :08.03.2022

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.Nos.27462 and 29241 of 2012
and
W.M.P.Nos.1,2 and 1 of 2012

1.T.Elumalai Achari
2.Govindaraj Achari

... Petitioners
(In W.P.No.27462/2012)

G.Savithri

... Petitioner
(In W.P.No.29241/2012)

Vs.

1.The Revenue Divisional Officer,
Chengulpet,
Kancheepuram District.

T.S.Jayaram (Died)

2.Jayakumar

3.Poongothai

4.Vijayakumar

(R2 to R4 substituted as LR's in the place of
deceased 2nd respondent's as per the order
dt.13.09.2013 in W.M.P.1/13 in W.P.27462/12)

... Respondents
(In W.P.No.27462/2012)

1.The District Collector,
Kancheepuram District.

2.Superintendent of Police,
Kancheepuram District.

3.Inspector of Police,
Thirukalukundram,
Kancheepuram District.

... Respondents
(In W.P.No.29241/2012)

Prayer in W.P.No.27462 of 2012: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records of the 1st respondent made in his order in Na.Ka.No.329/2012 B dated 30.08.2012 and quash the same in respect of Old Survey No.29A/1 and new Survey No.29/1B No.109, Block 42, Mamallapuram Salai, Thirukalunkundram 'A' Village, Kancheepuram District to the extent of 54 cents.



Prayer in W.P.No.29241 of 2012: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the 1st respondent to go into the merits of the complaint dated 01.10.2012 against the 3rd and 4th respondents and pass appropriate orders on merits as per law, within a time frame as may be fixed by the Hon'ble High Court consequently directing the 1st respondent to take steps by giving adequate instruction to the 2nd respondent to ensure the petitioner and her family enter the Thirukalkundram Village and her house, with sufficient protection to life and property as per law.

For Petitioner : M/s.Profexs Associates
(in W.P.No.27462/2012)

For Petitioner : M/s.Aravind Subramanian
(in W.P.No.29241/2012)

For R1 : Mr.T.Chezhiyan
Additional Government Pleader
(In both W.Ps.)

For R2 : M/s.P.Seshadri
(In both W.Ps.)

C O M M O N O R D E R

The issue that arises in the present Writ Petitions, is one and same. The petitioner in W.P.No.29241 of 2012 is none other than wife of second petitioner in W.P.No.27462 of 2012 and sister in law of the first petitioner in W.P.No.27462 of 2012.

2. The learned Additional Government Pleader takes notice for the official respondents. Since no adverse order is being passed against the private respondent, notice to the private respondent is dispensed with.

3. The case of the petitioners is that the property located in Old Survey No.29A/1 and new Survey No.29/1B No.109, Block 42, Mamallapuram Salai, Thirukalunkundram 'A' Village, Kancheepuram District, measuring an extent of 54 Cents, was purchased by one Kanthasamy Achari alias Karunanantha Swamigal in the year 1920 and the same was registered at the office of the Sub Registrar, Thirukalunkundram, on 20.08.1920 and 04.10.1920. The Karunanantha Sawamigal had no issues and he is also the elder brother of the grand father of the Thaipoosa Achari. After the petitioner's father's demise, the petitioners became the absolute owners of the above said property. The petitioners are doing carpentry work in the said property. The



second respondent herein was the friend of the petitioner's father and they developed friendship. Thereafter, the petitioners father became alcohol addicted and petitioners father had given upstairs key to the 2nd respondent to occupy the absolute possession of the petitioners property. Thereafter, the petitioners father constructed small house and the same was given for rent to various persons. Thereafter, the petitioners father was controlled by second respondent due to alcohol addiction and transfer the Patta in his name, after adjudication. Thereafter, the petitioners came to know that the Patta was illegally transferred in favour of the 2nd respondent on 27.01.2012. Thereafter, the Revenue Divisional Officer verified all the relevant documents, and passed an order to cancel the Patta and also to remove the name of the 2nd respondent and his brother's name in the Patta. Thereafter, there was a partition deed between the petitioner's family members on 09.04.2007, registered as Document No.3177 of 2007, on the file of the Sub Registrar, Thirukalunkundram. Thereafter, there was some difference of opinion among the petitioners family members and the same was settled amicably by cancellation of Partition Deed on 20.04.2012, on the file of Sub Registrar, Thirukalunkundram. Thereafter, the petitioners received a letter from the District Registrar for enquiry in respect of the land grab complaint said to be filed by the second respondent and the petitioner also received a letter from the Revenue Department on 03.06.2009 regarding change of Patta in favour of petitioners name. However, petitioners received summons from the Police Department in Central Crime Branch, Kancheepuram District. All those complaints have been instituted by the second respondent with malafide intention. There was a serious dispute between the petitioners family members and the second respondent. However, during the pendency of the proceedings of letter from the District Registrar, which was instituted by the second respondent, by the present impugned order, the Revenue Divisional Officer cancelled the Patta which stood in the name of the petitioners. Challenging the same the present Writ Petitions are filed.

4. The learned counsel for the petitioners submitted that, as against the Police complaint, the wife of the second petitioner filed a complaint against the second respondent in W.P.No.21931 of 2012, before this Court and the same was pending. However, the learned counsel submitted that since all disputes that arose between the petitioners family members and the second respondent appears to be civil in nature, this Court may permit the petitioners to file a Civil Suit as against the private respondents. If petitioners succeed thereafter, liberty may be granted to the petitioners to file appropriate application before the appropriate authority to grant Patta.



5. The learned Additional Government Pleader appearing on behalf of the official respondents has no serious objection for adopting the above course by this Court.

WEB COPY

6. The learned counsel appearing for the private respondents submitted that during the pendency of this case, the second respondent passed away and hence, his legal heirs were impleaded. He submitted that they are the legal heirs of Karunanantha Sawamigal and he further submitted that the issue involved is the civil dispute, which cannot be decided by this Court including the Revenue officials.

7. Considering the facts and circumstances, since, there are serious Civil disputes between the petitioners family members and the private respondents, the petitioners before this Court have come forward to go to the Civil Court for appropriate remedy. In view of above, this Court directs the petitioners to work out their remedy before the competent Civil Court in the manner known to law. If any suit is filed, the Civil Court is directed to decide the suit independently, without being influenced by observation made by this Court or the order passed by the authorities.

8. Accordingly, these Writ Petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

Psa

To

- 1.The Revenue Divisional Officer,
Chengulpet,
Kancheepuram District.
- 2.The District Collector,
Kancheepuram District.
- 3.The Superintendent of Police,
Kancheepuram District.



4.The Inspector of Police,
Thirukalukundram,
Kancheepuram District.

WEB COPY

+2cc to Mr.M.Arvind Subramaniam, Advocate, S.R.No.16314, 16315
+2cc to Mr.P.Seshaari, Advocate, S.R.No.15399, 15400
+1cc to M/s.Kaaviya Silambarasan, Advocate, S.R.No.15671
+1cc to the Government Pleader, S.R.No.16245

W.P. Nos.27462 and 29241 of 2012
and W.M.P.Nos.1,2 and 1 of 2012

RSV(CO)
SB(23/03/2022)