



W.P.No.18126 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.11.2022

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

W.P.No.18126 of 2022 and

WMP Nos.17465, 17493 of 2022

1. Sellapillai
2. Valliammai

... Petitioners

Vs.

1. The District Collector,
District Collector Office,
Perambalur
2. Tasildhar,
Taluk Office, Veppanthattai Post,
Perambalur District.
3. Chief Surveyor,
Taluk Office, Veppanthattai Post,
Perambalur District.
4. Regional Development Officer,
Panchayat Union Office,
Veppanthattai, Perambalur District.
5. Village Administrative Officer,
VAO Office, Thondapatti Village,
Perambalur District.

... Respondents



W.P.No.18126 of 2022

Prayer: Writ petition filed under Section 226 of the Constitution of India seeking to issue a writ of Certiorari, calling for the entire records which is culminated in passing the impugned order issued by the fourth respondent vide Na.Ka.No.A5/1418/2021 dated 18.04.2022 and quash the same.

For petitioners : Mr.P.D.Anbarasan

For Respondents : Mrs.R.Anitha, Spl.Gov. Pleader

ORDER

(Order of this Court was made by D.KRISHNAKUMAR, J.)

This Writ petition has been filed seeking to issue a writ of Certiorari and quash the impugned order issued by the fourth respondent vide Na.Ka.No.A5/ 1418/2021 dated 18.04.2022.

2. The case of the petitioner in brief:

The petitioners are the owners of the properties in S.No.204/10, 13, 15, 16, 17, measuring to an extent of 0.48.50 ares, in patta No.261 at Thondapadi Village, Veppanthattai Taluk, Perambbalur District, which is described as Item No.1 of Schedule property, through a



W.P.No.18126 of 2022

registered partition deed in Doc.No.2083 of 1985 and a sale deed dated 17.07.1995 in Doc.No.1133 of 1995. Patta and chitta, with regard to the above properties, have also been mutated to the names of the petitioners and they are in possession, by constructing a house. In such circumstances, when the petitioners were out of station, on 13.07.2021, the third and fifth respondents, put a cement stone in their property. Further, the second respondent issued a notice dated 12.08.2021 to the petitioners and others to remove the encroachment made in the above land. Hence, the petitioners filed a suit in O.S.No.33 of 2021 before the District Munsif cum Judicial Magistrate, Veppanthattai District and the same is pending. Pending suit, the District Development Officer, Veppanthattai, has sent a final notice dated 18.04.2022 to the petitioners and others to remove the encroachments on or before 28.04.2022. Hence the writ petition.

3. In the Schedule of Property annexed to the writ petition, the petitioners mentioned Item No1, Item No.2 and Item No.3 as “Schedule of Properties”. Item No.2 is with regard to the land in Survey No.203 and 205 of Thondapadi Village and Item No.3 is with regard to the land



W.P.No.18126 of 2022

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in S.No.204/7 of Thondapadi Village. However, the petitioners stated in the affidavit that they are the owners of the properties in Item No.1 alone, which is comprised in Survey No.204/10, 13, 15, 16, 17 of Thondapai Village.

4. The learned counsel for the petitioners submitted that the writ petition has been filed only in concern with the Item No.1 of the Scheduled Properties. He further submitted that already, a suit in O.S.No.33 of 2021 has been filed before the District Munsif cum Judicial Magistrate, Veppanthattai District seeking permanent injunctions restraining the respondents from interfering with the peaceful possession of the petitioners in the properties, except due process of law; and also from executing the eviction order, without measuring the properties. It is also submitted by him that, in the above said suit, petition was filed to appoint an Advocate Commissioner to inspect the suit property to find out, whether the petitioners made any encroachment. Pending suit, the fourth respondent issued a notice dated 18.04.202 to remove the encroachment and hence, this writ petition has been filed.



W.P.No.18126 of 2022

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5. The learned counsel for the petitioners also submitted that the petitioners' properties are situated in the middle of Item No.2 and Item No.3 of the properties and the Item No.1 of the properties are patta lands belonged to the petitioners and they have not made any encroachment.

6. The learned Special Government Pleader appearing for the respondents submitted that on receipt of a representation from the residents of Thondapadi Village, action has been taken and in the presence of Revenue Officials and the Inspector of Police, Mangalamedu Police Station, encroachments have been removed in S.No.204/7 of Thondapadi Village. Insofar as the patta lands belonging to the petitioners are concerned, they have not taken any steps to remove the encroachment and the Officials will act, only as per the direction of the Court. To that effect, she has also placed a report of the Tahsildar, Veppanthattai Taluk before this Court.

7. At this juncture, the learned counsel appearing for the



W.P.No.18126 of 2022

WEB COPY

petitioners submitted that, it is suffice to direct the respondent concerned to measure the petitioners' properties, in their presence, with the assistance of Surveyor and if the respondents find out that the petitioners made any encroachment, the petitioners have no objection to take appropriate action, in accordance with law.

8. The learned Special Government Pleader for the respondents has not raised any serious objection to measure the properties of the petitioners, with the assistance of Surveyor.

9. Considering the facts and circumstances of the case and also taking into account the submission made by the learned counsel for the petitioners and also the learned Special Government Pleader, we are inclined to pass the following order.

i) The Tahsildar, Veppanthattai Taluk is directed to inspect the Item No.1 of the schedule mentioned properties, viz., Survey No.204/10, 13, 15, 16 & 17, totalling to an extent of 0.48.50 ares land in Patta No.261 and the building constructed therein, Thondapadi Village, Veppanthattai Taluk, Perambalur District, along with the



W.P.No.18126 of 2022

Panchayat officials and measure the same with the assistance of surveyor, in the presence of the petitioners.

ii) If the officials find out that the petitioners made any encroachment, they shall take necessary action to remove such encroachments, in accordance with law.

iii) In the light of the above order, the suit in O.S.No.33 of 2021 on the file of the District Munsif cum Judicial Magistrate, Veppanthattai District is not maintainable, unless the respondents concerned interfered with the patta lands belonging to the petitioners.

9. With the above direction, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

(D.K.K., J.) (T.V.T.S., J.)

04.11.2022

(1/2)

Index:Yes/No
mst



W.P.No.18126 of 2022

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W.P.No.18126 of 2022

**D. KRISHNAKUMAR, J.
and
T.V.THAMILSELVI, J.**

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W.P.No.18126 of 2022

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