



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.03.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.17839 of 2020

and

WMP.Nos.22125, 22132, 22129, 22123 of 2020

and

WMP.No.2721 of 2021 & 2722 of 2021

1. Adhithyaa Dairy Farm

A partnership firm represented,
Its partner Mr.G.Kumar,
son of Govindasamy Naicker,
Having registered office,
at No.1 and 2 Prakasam street,
MCN Nagar, Thuraipakkam, Chennai-97.

2. G.Kumar

...Petitioners

Vs

1. The Revenue Divisional officer,
Chengalpet district, chengalpet.

2. The Thashildar,
Thiruporur Taluk, chengalpattu Road,
Thiruporur, Near BDO office,
Kanchipuram 603 110.

3. Lakshmipathy

4. Idhayavarman alias senthil

5. Madura

6. R.Tulasi

7. S.Manhoaran

8. Munusamy

9. Gnansekar

10. Palani

11. Mayandi

..Respondents

Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus calling for the records pertaining to the order dated 10.03.2020 passed



in Na.Ka.No.1/2020/A1 on the file of the second Respondent quash the same in so far as it refers the matter to the first Respondent for conducting peace talks between the parties and consequently direct the second Respondent to conclude the enquiry under section 147 read with section 145 of the code of criminal procedure 1973 in terms of the factual findings already arrived at in a time-bound manner.

For Petitioners: Mr.G.Vivekanand

For Respondents: Mr.S.Silambannan RR1 & 2
Addl. Advocate General
Assisted by Mr.G.Nanmaran
Special Government Pleader
Mr.Vigneswaran R3
Mr.V.Lakshmi Narayanan, R4
Mr.P.Vasanthkumar, RR3 to 11

O R D E R

The petitioner has filed this petition seeking to quash the impugned order dated 10.03.2020 passed in Na.Ka.No.1 /2020 / A1 on the file of the second Respondent and consequently direct the second Respondent to conclude the enquiry under section 147 read with section 145 of the code of criminal procedure 1973 in terms of the factual findings already arrived at in a time-bound manner.

2.The case of the petitioners is that the petitioners herein acquired lands ad-measuring 13.50 Acres situated at Sengadu and Illalur Village, Thiruporur Taluk, Chengalpattu District. The dispute arose with regard to the path way in S.No.27/21 situated at Sengadu Village. The main access to the petitioner's property for ingress and egress from the Old Mahabalipuram Road is through S.No.27/21 situated at Sengothiamman Koil Street, Sengadu village, Thiruporur Taluk (now Chengalpattu District) which is Government Poromboke. The said street connects the lands comprised in S.No.16/17 out of the petitioner's property to the Old Mahabalipuram Village.

3.It is the further case of the petitioners that the said Sengothiamman Koil Street comprised in S.No.27/21 is the only access to the petitioner's property starting from S.No.16/17. It is also pertinent to note that the said street is also the access road for the purpose of ingress and egress of the land of the respondents 3 & 4, which is at the western end of the said Sengothiamman Koil Street. The petitioners property access from the said S.No.27/21 lies on the north western side of the said survey number. Under these circumstances, the petitioner's and the respondents 3 and 4 are using the same street, which is a



public road, but the respondents 3 & 4 were prevented the petitioners from using the said road. There was a dispute between the petitioners and the private respondents with regard to usage of pathway, due to which, the respondents 3 to 11 were tried to trespass and interfere with the right of access to the petitioners property acquired by the petitioner as well as in the right of access in the said S.No.16/17 and created law and order problem. Therefore, the petitioner lodged a complaint before the Thiruporur Police station against the private respondents on 06.03.2020. The jurisdiction Police have referred the matter to the Tahsildar/second respondent herein to maintain peace in the locality. But the Tahsildar, vide his order dated 10.03.2020, forwarded the matter to the Revenue Divisional Officer for conducting peace committee meeting. Challenging the same, the present writ petition has been filed before this Court to quash the proceeding dated 10.03.2020 passed by the Tahsildar and to direct the second Respondent to conclude the enquiry under section 147 read with section 145 of the code of criminal procedure 1973 in terms of the factual findings already arrived at in a time-bound manner.

4.The learned counsel for the petitioner submitted that the second respondent failed to appreciate the documents and deeds filed by the petitioner along with complaint lodged before the Thiruporur Police Station which has been duly forwarded to him before passing impugned order, which is not justified and the stand taken by the first respondent cannot be legally sustained. The second respondent has to conduct the peace committee meeting and he ought to have decided on the right of the petitioners to use the pathway. Instead of doing that, the Tahsildar referred the matter to the RDO is not sustainable one. Hence, the learned counsel prays that this Court may quash the impugned order passed by the Tahsildar dated 10.03.2020 and allow the writ petition.

5.The learned counsel for the private respondents submitted that if any law and problem arose in the particular area, the revenue officials have power to decide the issue as per the Chapter - X of the Criminal Procedure Code. In the present case, initially the respondent police referred the matter to the Tahsildar. In turn, the Tahsildar has referred the matter to the RDO for further enquiry, which is legal and permissible one. The RDO is entitled to decide the issue between the parties. In order to maintain peace in the said locality, the Tahsildar has passed the impugned proceeding, which is perfectly valid. Hence, the learned counsel prays to dismiss the writ petition.

6.The learned Additional Advocate General of Tamil Nadu appearing on behalf of the State submitted that in the affidavit



filed by the petitioner, the S.No.27/21 is recorded as Street, however Sri Sengothiamman Koil is located between the petitioner's land which comprised in S.No.16/17 and road comprised in S.No.27/21. The petitioners had wantonly suppressed the material facts regarding the availability of Sri Sengothiamman Koil land on the eastern side of their land. The Inspector of Police received complaints in both side. During enquiry, both the parties did not co-operate to find a peaceful settlement and the police officials opined that there is a possibility of law and order problem in the said village in this regard. Hence, the police officials forwarded the matter to the second respondent. The second respondent has already measured the property through Surveyor in the presence of both the parties and the police officials. But the petitioner and the private respondents have not come forward to settle the issue peacefully. Hence, the second respondent rightly referred the issue to the first respondent(RDO) on 10.03.2020 and there is absolutely no irregularity in the impugned proceedings passed by the Thasildar, which does not warrants any interference by this Court. When there is a civil dispute between the parties, the parties have to approach the competent civil court to solve the issues. Contrary to that, the petitioners have filed the present writ petition, which is not maintainable and it has to be dismissed.

7.Heard, the learned counsel for the petitioners, the learned counsel for the respondents 3 to 11 as well as the learned Additional Advocate General assisted by the learned Special government Pleader appearing on behalf of the official respondents and perused the materials available on record.

8.The facts of the case are not in dispute. Admittedly, there was a dispute with regard to usage of pathway between the petitioner and the respondents 3 & 4, for which, both the parties were lodged a complaints before the Thiruporur Police Station. During enquiry, the parties did not co-operate to settle the issue and therefore, the Police officials referred the matter to the second respondent. In turn, the second respondent forwarded the matter on 10.03.2020 to the first respondent for conducting a peace committee meeting between the parties. Challenging the said proceedings, the petitioners have filed the present writ petition.

9.It is clearly established by the State that the Tahsildar has measured the properties in the presence of both the parties. However, both the parties have not come forward to settle the issue peacefully. In order to maintain peace and tranquillity, the Tahsildar has rightly referred the matter to the first respondent to conduct the peace committee meeting. In the proceedings, it is clearly stated that there is possibility



of law and order problem in the said Village.

10. In view of the above discussion, this Court does not find any illegality or irregularity in the order passed by the second respondent and the same is legally perfect in view of the Chapter-X of the Cr.P.C. Hence, this Court is not inclined to interfere with the order dated 10.03.2020 passed by the second respondent.

11. Accordingly, the writ petition is dismissed. No costs. However, liberty is granted to the petitioners to work out their remedy in the manner known to law before the competent civil Court to resolve the dispute. Consequently, connected miscellaneous petitions are also closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1. The Revenue Divisional officer,
Chengalpet district, chengalpet.
2. The Thashildar,
Thiruporur Taluk,
Chengalpattu Road,
Thiruporur, Near BDO office,
Kanchipuram 603 110.

+1cc to the Government Pleader, S.R.No.15525

W.P.No.17839 of 2020
and WMP.Nos.22125, 22132,
22129, 22123 of 2020 and
WMP.No.2721 of 2021

NMI (CO)
RGA (04/05/2022)