



W.P.No.27973 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.07.2022

CORAM:

THE HON'BLE **MR.JUSTICE M.DHANDAPANI**

W.P.No.27973 of 2018

and

W.M.P.Nos.32537 & 32539 of 2018

1. V.Rajaraman

2.V.Balasubramanian

. . . Petitioners

Vs.

The District Revenue Officer,
Nagapattinam, Nagapattinam District

. . . Respondent

PRAYER:Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the entire records relating to the impugned order passed by the respondent in his proceedings Pa.Mu.19665/2017/B4 dated 09.10.2017 and quash the same and consequently directing the respondent to issue patta to the petitioners in so far relates to S.No.29/1, Sembanarkoil Village & Post, Tharangabadi Taluk, Nagapattinam District to the extent of 43 cents of land as per under cover of valid registered sale deed in Document No 2133/1963 kdated 08.08.1963.



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For Petitioner : Mr.C.Prakasam
For Respondents : Mr.G.Krishna Raja,
Additional Government Pleader

ORDER

The present petition has been filed seeking to quash the impugned order dated 09.10.2017 passed by the respondent and direct the respondent to issue patta in favour of the petitioners in respect of the subject property of this Writ Petition.

2. It is the case of the petitioners that the subject land situated in S.No.29/1, Sembanarkoil Village & Post, Tharangabadi Taluk, Nagapattinam District to an extent of about 43 cents was purchased by the petitioners' father, in the year 1963. During his lifetime, the petitioners' father executed a will dated 06.05.2002 in favour of his wife/petitioners' mother. After the demise of their father, the petitioners made a representation dated 12.04.2012 to the Revenue Divisional Officer, Mayiladuthurai, requesting to issue patta in their favour, however, the said representation was rejected on the ground



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that separate patta cannot be granted in favour of the petitioners till the life time of their mother. As against the said order, appeal was preferred before the 1st respondent herein, pursuant to which, the impugned proceedings dated 09.10.2017 came to be passed by the respondent, granting patta to an extent of 38.5 cents of land. However, no patta was granted in respect of remaining 4.5 cents of the land as the same has been recorded in the revenue records as Government Poromboke land. Aggrieved by the same, the petitioners have come up with the present petition.

3. Learned counsel for the petitioners submits that though patta has been issued in respect of 38.5 cents of land, however, however, in respect of 4.5 cents of land, patta was denied as the said portion of land has been wrongly mentioned in the revenue records as Government Poromboke land, however, the said error can be rectified in the light of G.O.Ms.No.385, Revenue Department dated 17.08.2004 issued by the Government of Tamil Nadu.



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4. Per Contra, learned Additional Government Pleader appearing for the Respondents submits that though the petitioner claims that the errors in the revenue records can be rectified, however, the same can be done only if there is no discrepancy between the extents of lands owned by the petitioners. In fact, the petitioner is not in occupation and enjoyment of 43 cents of land as claimed by the petitioner. Further, the title with regard to the balance 4.5 cents of land being a disputed question of fact, proper course open for the petitioner is to approach the competent civil court.

5. Heard the learned counsel on the either side and perused the materials available on record.

6. It is seen from the materials available on record, that though patta has been issued by the respondent, in respect of 43 cents of land, however, patta was not issued in respect of remaining 4.5 cents of land and the said portion of land has been classified as Government Poromboke land. It is the claim of the petitioners that they are entitled to get patta in respect of 43 cents



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of land as per the sale deeds. In the present case, title with regard to 4.5 cents of land is the disputed question of fact, hence, the same cannot be decided by this Court under Article 226 of the Indian Constitution. Therefore, in order to establish their title over the disputed portion of land, proper course open for the petitioners is to approach the competent Civil Court. In view of the above, without interfering with the order impugned in this Writ Petition, this Court is inclined to grant liberty to the petitioners to approach the competent Civil Court.

7. Accordingly, this Writ Petition is disposed of with the aforesaid direction. No Costs. Consequently, the connected Miscellaneous Petitions are closed.

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Index : Yes / No

Internet : Yes / No



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M.DHANDAPANI, J.

NHS

To
The District Revenue Officer,
Nagapattinam, Nagapattinam District

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