



WA No.2403 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.07.2023

CORAM

THE HON'BLE MR.SANJAY V.GANGAPURWALA , CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE P.D.AUDIKEVALU

WA No.2403 of 2022

N.Ramachandran : Appellant

versus

1.D.Yasodhai Ammal

2.The Special Commissioner and Commissioner
(Land Administration),
Chepauk, Chennai

3.The District Revenue Officer,
Tiruvannamalai 606 601

4.The Revenue Divisional Officer,
Tiruvannamalai 606 601

5.The Tahsildar,
Tiruvannamalai Taluk Office,
Now Kilpennathur Taluk,
Kilpennathur 604 601
Tiruvannamalai

: Respondents

Prayer: Writ appeal filed under Clause 15 of the Letters Patent against the order dated 26.04.2013 in WP No.14670 of 2003.

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For the Appellant : Mr.N.R.S.Ganesan

For the Respondents : Mr.M.S.Krishnan,
Senior Counsel,
for M/s.Aiyar & Dolia,
for the first respondent

Mrs.R.Anitha,
Special Government Pleader,
for respondents 2 to 5.

JUDGMENT

(Made by the Hon'ble Chief Justice)

We have heard Mr.N.R.S.Ganesan, learned counsel for the appellant, Mr.M.S.Krishnan, learned Senior Counsel for the first respondent and Mrs.R.Anitha, learned Special Government Pleader, for respondents 2 to 5.

2. The appellant assails the order of the learned Single Judge passed in WP No.14670 of 2003. The present respondent No.1 had filed a writ petition thereby challenging the orders passed by the authorities cancelling the assignment. The learned Single Judge observed that it would not be appropriate to cancel the assignment after nine years and further observed that the Tahsildar shall make inspection of the land in question in order to



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ascertain the status of the land and after hearing the objections from the petitioner and other persons concerned, to pass suitable orders by providing pathway in 6 feet.

3. According to the learned counsel for the appellant if the learned Single Judge came to the conclusion that the writ land is a pathway, then, no question arises of limiting the width of the pathway; whereas, learned Senior Counsel for the first respondent submits that the 'A' register clearly records the writ land as a dry land. The same was rightly assigned. The alleged pathway was created and that is also reflected in the submissions of the present appellant before the authority i.e. the Special Commissioner and Commissioner (Land Administration), Chepauk, Chennai, and the same is reproduced in its order dated 03.04.2003.

4. It does not appear that the learned Single Judge has considered all the contentions while observing that the land in question is a pathway available for eight dwelling houses. A specific finding will have to be arrived in respect of the nature of the property i.e. whether it was a pathway or a dry land. At the same time, it cannot be disputed that the adjoining persons should



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have some pathway for ingress and egress and cultivating the land.

5. In the light of the above, we pass the following order:

“(i) The impugned order passed by the learned Single Judge and the order passed by the Special Commissioner and Commissioner (Land Administration), Chepauk, Chennai, dated 03.04.2003 are quashed and set aside;

(ii) The matter is remitted to the Special Commissioner and Commissioner (Land Administration), Chepauk, Chennai. The Special Commissioner shall reconsider the contentions of the present appellant and the present respondent No.1, so also consider the entire records as may be produced by the respective parties and arrive at a fresh conclusion as to the nature of the property and the legality of the assignment in favour of the present respondent No.1/original writ petitioner.

(iii) If the Special Commissioner and Commissioner (Land Administration), Chepauk, Chennai, comes to the conclusion that the writ land since beginning is a pathway, then, no further question arises. However, if the Authority comes to the conclusion that the writ land was a dry land and was legally assigned to the present respondent



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No.1/ writ petitioner, he shall further make suitable orders with regard to the grant of pathway to the villagers, i.e., eight dwelling houses for the purpose of ingress, egress and cultivation, if it is so shown to him.

(iv) The parties shall appear before the Special Commissioner and Commissioner (Land Administration), Chepauk, Chennai, on August 7, 2023.

(v) The writ appeal is accordingly disposed of. There will be no order as to costs.”

(S.V.G., CJ.)

(P.D.A., J.)

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Index : Yes/No
Neutral Citation : Yes/No
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To

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(Land Administration), Chepauk, Chennai

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3.The Revenue Divisional Officer, Tiruvannamalai

4.The Tahsildar,
Kilpennathur Taluk,
Kilpennathur 604 601

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THE HON'BLE CHIEF JUSTICE
AND
P.D.AUDIKEVALU, J.

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