



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.03.2024

Coram:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

W.P. No.2957 of 2024 and
W.M.P. Nos.3217, 3218, 3220 and 3221 of 2024

1. T.Rajendran
2. R.Yuvaraj
3. R.Arjunan

... Petitioners

Vs.

1. The District Collector
Chengalpattu District, Chengalpattu

2. The Revenue Divisional Officer
Chengalpattu District, Chengalpattu

3. The Tahsildar
Thirukazhukundram Taluk, Chengalpattu District

4. S.Balasubdaram
5. V.Varadhan
6. V.Venkatesan
7. V.Rajaram
8. V.Balaji

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari to call for the records relating to the impugned proceedings issued by the 2nd respondent in Na.Ka.No.1757/2023/A1 dated 06.12.2023 and to quash the same.

For Petitioners : Mr.S.Nedunchezhiyan
For R1 to R3 : Mr.T.Arun Kumar
Additional Government Pleader
For R4 and R8 : Mr.B.Balavijayan



ORDER

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This Writ Petition is filed seeking to issue a Writ of Certiorari to call for the records relating to the impugned proceedings issued by the 2nd respondent in Na.Ka.No.1757/2023/A1 dated 06.12.2023 and to quash the same.

2. The learned Senior Counsel for the petitioners submitted that the petitioners are the absolute owners of the subject property and they are having valid title over the same and that it remains to be a Nanja-Agricultural land under cultivation. While so, the private respondents herein who are the owners of adjoining lands, claimed pathway through the Patta lands belonging to the petitioners on the ground that a Zamin pathway is in existence as per the revenue records. He would submit that the disputed property is a private land and there is no pathway existed in the said land. Earlier, the private respondents, along with few others, filed a civil suit in O.S.No. 27 of 2021, on the file of the Principal Sub Court, Chengalpattu claiming common pathway through the Patta land belonging to the petitioners with vested interest and they also filed I.A.No.5 of 2022, for appointment of Advocate Commissioner to identify and to re-measure the suit property, claiming it as a common pathway and the same was dismissed by order dated



23.06.2023, on the ground that the plaintiffs therein cannot acquire evidence through Advocate Commissioner. Since the said application was dismissed, the private respondents withdrew the suit itself. Thereafter, they approached the revenue authorities and without any materials, the revenue authorities passed the impugned order. He would further submit that there is no pathway existing in the said land and that the disputed land is not classified as a pathway in any of the revenue records. The petitioners obtained a certified copy of the FMB Sketch in which also, there is no pathway.

3. The learned Additional Government Pleader appearing for the official respondents submitted that in the revenue records, the disputed land has not been shown as a pathway but, based on the understanding between the previous land owners and Villagers, the disputed land was used as Cart Track with 16 links which is equivalent to 10 feet. In order to avoid law and order issue, proceedings under Section 145 Cr.P.C., was initiated and since the Villagers used the disputed land as pathway, in order to maintain peace and to control the law and order, they passed the impugned order as an interim arrangement.

4. The learned counsel for the private respondents submitted that the private respondents have got all the documents and the prior documents



clearly shows that the disputed land is only a pathway. The petitioners are only the subsequent purchasers and they cannot deny the pathway right given by the original owners/predecessors of the writ petitioners. The predecessors of the Writ Petitioners did not object to use the land as pathway. Only after purchasing the land, the petitioners disputed the same and prevented them from using the land as pathway. Therefore, the dispute arose.

5. Heard and perused the materials available on record.

6. When the matter came up before this Court on 09.02.2024, the official respondents were directed to produce the FMB Sketch and also other related records to verify the same. Today, when the matter is taken up for hearing, they produced the records and original FMB Sketch which was so damaged. They also produced the enlarged Xerox copy of the FMB book. The learned counsel for the petitioner also produced the certified copy of the FMB Sketch obtained from the revenue authorities.

7. In the revenue records viz., FMB Sketch or Adangal or any other records the said land has not been earmarked either as a public pathway or Cart Track. Once the land has not been shown as a public pathway or Government property, the official respondents have no authority to pass the impugned order. If there is any dispute between two individuals regarding



land, the official respondents should have advised the parties to work out their remedy before the Civil Court instead they have interfered into a civil dispute and also passed the impugned order. Therefore, the same is liable to be quashed.

8. In this case, since the dispute is civil in nature, both the petitioners and the private respondents are directed to work out their remedy before the competent Civil Court.

9. Accordingly, this Writ Petition is allowed. The impugned order in Na.Ka.No.1757/2023/A1 dated 06.12.2023, passed by the 2nd respondent is quashed.

10.W.M.P. Nos.3218, 3220 and 3221 of 2024 are closed. W.M.P. Nos.3217 of 2024 is ordered subject to payment of separate Court fee.

11.03.2024

ksa-2

Index : Yes / No

Neutral Citation Case : Yes/No



To

1. The District Collector
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Chengalpattu
2. The Revenue Divisional Officer
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P.VELMURUGAN. J.

Ksa-2

W.P. No.2957 of 2024

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