



W.P.No.22615 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.07.2024

CORAM:

THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

W.P.No.22615 of 2018
and
W.M.P.No.26465 of 2018

D.Balachandran

...Petitioner

-Vs-

1.The District Collector,
O/o.The District Collector,
Cuddalore.

2.The Commissioner,
Cuddalore Municipality,
Cuddalore.

3.The District Revenue Officer,
O/o.The District Revenue Officer,
Cuddalore.

4.The Sub Collector,
O/o.The District Collector,
Cuddalore.

5.The Village Administrative Officer,
O/o.Village Administrative Officer,
Cuddalore.

6.The Tahsildar,
Taluk Office, Cuddalore.

...Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a direction in the nature of Writ of Mandamus, forbearing the respondents from interfering with the peaceful possession and enjoyment of the petitioner property situated at T.S.Nos.1433 and 1512, Tiruppadiripuliyur Village, Cuddalore Town and Taluk without following the due process of law and pass such further orders.

For Petitioner : Mr.I.Abrar MD Abdullah

For R1, R3 to R6 : M/s.M.Jayanthy
Additional Government Pleader

For R2 : Mr.P.Srinivas

ORDER

This writ petition is filed for issuance of a Writ of Mandamus, forbearing the respondents from interfering with the peaceful possession and enjoyment of the petitioner property situated at T.S.Nos.1433 and 1512, Tiruppadiripuliyur Village, Cuddalore Town.

2. Learned counsel for the petitioner submitted that the property situated at Survey Nos.1433/2 and 1512 in Tiruppadiripuliyur Village, Cuddalore Town, originally belonged to the Petitioner's late grandfather, Govindasamy Chettiar, having purchased the same vide Document No.127/1934 dated 11.01.1934 measuring an extent of 1 acre 34848 sq.ft. and



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1 acre 2857 sq.ft., respectively. Thereafter, it was allotted to the petitioner's father after partition. Since the respondents had started troubling his father's possession, he filed a suit in O.S.No.477 of 1974 on the file of the learned Subordinate Judge, Cuddalore, and the same was decreed in his favour. Subsequently, an appeal was filed against the decree and the same was dismissed due to a delay of 1377 days. During 2010, the respondents herein again tried to interfere with their peaceful possession and enjoyment, the petitioner along with his brothers had filed a Writ Petition in W.P.No.14115 of 2010, wherein this Court initially granted an order of interim *status quo* and thereafter, allowed the writ petition stating that the respondents herein have no manner of right over the above mentioned properties without following the due process of law vide its order dated 31.08.2010.

3. Learned counsel further submitted that the petitioner, along with his brothers had also filed a Suit in O.S.No.126 of 2009 on the file of the learned Principal District Munsif, Cuddalore, against respondents 1 and 2 herein for a declaration that the above mentioned properties belonged to the petitioner and his brothers and the same came to be decreed vide Judgment and Decree dated 26.08.2014. The 2nd respondent vide his proceedings dated 31.08.2007 had sought for permission to purchase the said lands from the



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petitioner and his brothers and thereafter, the 6th respondent vide his communication dated 23.10.2007 had sought for valuation of the said lands.

Similarly, the 3rd respondent vide communication dated 01.12.2007, reiterated the same and arrived at a provisional value for the said lands to be purchased from the petitioner and his brothers. Earlier to the above said proceedings, they had also sought for permissions from the Railway Department since the lands were abutting the Railway Track and the said permissions were granted to the petitioner and his brothers for constructing the buildings, also acknowledging that they are the owners of the lands in T.S.Nos.1433 and 1512, Tiruppadiripuliyur Village, Cuddalore.

4. Learned counsel further submitted that respondents 4 and 5 herein on 25.08.2018 had called the petitioner and his brothers for an enquiry to their office and had requested them to handover the property belonging to the petitioner and his brothers in T.S.Nos.1512 and 1433, free of cost for their utilization. However, respondents 4 to 6 barged into their lands on 28.08.2018 without their permission and started clearing the said property using JCB and other machines without any notice, attempting to forcibly take possession of the petitioner's property. Hence, the present writ petition has been filed.



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5. It is the main contention of the learned counsel for the petitioner that if the land in T.S.Nos.1433 and 1512, Tiruppadiripuliyur Village, Cuddalore Town, is required by the respondents in future, a fresh notification will be issued.

6. A counter affidavit was filed on behalf of the 2nd respondent dated 07.12.2018, and the relevant paragraphs are extracted hereunder for better appreciation and understanding:

“5. Subsequently the way for the said Market was formed by a separate road running along the Railway line and the road was formed in T.S.No.1506, which is parallel to the Land of the Petitioner in T.S.No.1512. The road has been formed in the T.S.No.1506 and not in any manner in the lands of the Petitioner in T.S.No.1512. Further the land of the petitioner in T.S. No 1433 is not at all anywhere near the said newly formed road.

6. Therefore it is submitted that the action of this respondent in forming the road in T.S. No.1506 has nothing to do with the lands of the petitioner and the petitioner has not at all been affected in any manner. The Petitioner has approached this Honourable Court on mere apprehensions and without any truth in his allegations.”



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7. Another counter affidavit was filed on behalf of the 6th respondent dated 22.01.2019, and the relevant paragraphs are extracted hereunder for better appreciation and understanding:

“6. With regard to the averments in Para 5 it is submitted that the said proposal was mooted in the time prior to the construction of the under bridge under the Railway track and thereafter due to the formation of the subway, the usage has changed and there lands of the Petitioner) Further, due to the fact that the lands were adjacent to was no necessity to acquire the the under bridge, the same was not useful for the purpose originally intended and as such the land was not utilized by the second respondent.

7. The respondent further submits that the averments of the petitioner in Para 8 and 9 are denied. The work of formation of the road in the T.S.No.1506 to connect the Panbari Market with the Service Road of the Road Over bridge in Surappanaikenchavadi across the Railway Tracks were carried out by clearing the same with JCBs by the second respondent.

8. Further action of the respondents 4 and 5 as staged by the petitioner are misleading statements. The 4th and 5th respondents had convened the peace committee meetings in order to address the grievances of the vendors in the market who were suffering for want a proper access to the market.



Only during the said meetings, the 4th and 5th respondent had to visit the place and their actions had nothing to do with the lands of the petitioner. Furthermore, the Panbari Market was connected with the newly formed Road in T.S.No.1506 by a short passage over T.S.No.1504, which was in fact acquired from the petitioner.”

8. Heard both sides and perused the materials placed on record.

9. In view of the above submission made by the learned counsel on either side, this Court is of the considered view that if the land in T.S.Nos.1433 and 1512, Tiruppadiripuliyur Village, Cuddalore Town, is required by the respondents in future for any purpose, fresh notification shall be issued and other proceedings shall be initiated in accordance with law.

Accordingly, the **writ petition stands disposed of with the above observation and direction.** No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes / No

Speaking / Non-Speaking Order

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2.The Commissioner,



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J.SATHYA NARAYANA PRASAD, J.

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