



WP No.34434 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.01.2024

CORAM

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

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

WP No.34434 of 2023
and WMP Nos.34351, 34352 and 34353 of 2023

1. T.Vennila
2. Thairiyanathan .. Petitioners

-VS-

1. The District Collector,
Tiruvallur District,
Tiruvallur 602 001.
2. The Revenue Divisional Officer,
O/o. The Revenue Divisional Officer,
J.N.Road, Tiruvallur & District 602 001.
3. The Thasildar
Avadi Taluk, Avadi,
Chennai 600 054.
4. The Block Development Officer,
Poonamallee Panchayat Union,
Poonamallee, Chennai 600 056.
5. The President,
Nemilicherry Village Panchayat,
Nemilicherry, Avadi Taluk,
Chennai 602 024.



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6. Ramasamy

.. Respondents

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Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari to call for the records relating to the impugned order made in Na.Ka.No.2083-2023-A5 dated 01.11.2023 issued by the 2nd respondent and impugned Patta Transfer Order made in T.R.:2023/01/12/000581SD dated 24.11.2023 in so far as the S.No.104/1A1A1 is concerned issued by the 3rd respondent and quash the same and to drop all the proceeding pending against the petitioners.

For the Petitioners : Mr.R.Saseetharan

For the Respondents : Mr.P.Muthukumar,
State Government Pleader,
for RR 1 to 4

* * * * *

ORDER

(Made by the Hon'ble Chief Justice)

We have heard Mr.R.Saseetharan, learned counsel for the petitioners and Mr.P.Muthukumar, learned State Government Pleader, for respondent Nos.1 to 4.

2. The petitioners are challenging the order dated 01.11.2023 thereby directing the Block Development Officer to remove the encroachment in the presence of Tahsildar.



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3. The learned counsel for the petitioners submits that the petitioners are the owners and possessors of land bearing S.No.104/1A1A1. The Revenue Divisional Officer has directed the petitioners to remove the encroachment in S.No.104/1A1A1 to the extent of 0.65 cents along with other survey numbers. According to the learned counsel, the land in question is not a Government land. The petitioners are the owners and possessors of the said land. The Revenue Divisional Officer has no authority to direct removal of encroachment. Earlier, the notice was only in respect of S.No.108/2B and not in respect of the other land.

4. It would appear that the petitioners had filed a civil suit bearing O.S.No.150 of 2021 in respect of two lands as described in Schedule 'A' and Schedule 'B' of the plaint. The trial Court decreed the suit with regard to 'A' schedule property and dismissed the suit with regard to 'B' schedule property. The schedule of the property is as under:

A – Schedule of Property

Tiruvallur District, Avadi Taluk, Tiruninravur Firka,



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Nemilichery Village, Rajiv Nagar Annexure-I, Survey Number 104/1A1A1, an extent of 1,600 square feet land in rough sketch ABCD bounded on

North by : Plaintiff property
South by : 30 feet road
East by : 30 feet road ("B" schedule property)
West by : Survey Number 104/1A1A

Leaner measurement

North by : 20 feet
South by : 20 feet
East by : 80 feet
West by : 80 feet

B – Schedule of Property

Tiruvallur District, Avadi Taluk, Tiruninravur Firka, Nemilichery Village, Rajiv Nagar Annexure-I, Survey Number 104/1A1A1, an extent of 2,400 square feet land in rough sketch AEFB bounded on

North by : Plaintiff property
South by : 30 feet road
East by : 12 feet water drainage
West by : "A" suit schedule property

Leaner measurement

North by : 30 feet
South by : 30 feet
East by : 80 feet
West by : 80 feet

5. It would appear that the petitioners cannot claim right, title and interest to the extent of 2400 sq.ft. in S.No.104/1A1A1 and their right is recognised by the trial Court only in respect of land admeasuring 1600 sq.ft. in S.No.104/1A1A1. The petitioners are also



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not concerned with S.Nos.104/1, 108/1, 108/2B.

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6. In light of the above, even if the best case of the petitioners is considered, the same would be to the extent of 1600 sq. ft. in S.No.104/1A1A1 of the property described in Schedule 'A' of the decree. In light of that, it will not be open for the petitioners to seek any relief with regard to 'B' schedule property of the plaint. The impugned order as such is not interfered with. It is clarified that the respondents are at liberty to remove the encroachment if any in 'B' schedule property as described above. However, on the basis of the impugned order, the respondents cannot take action with regard to 'A' schedule property as described above.

With this clarification, the writ petition is disposed of. There shall be no order as to costs. W.M.P.No.34351 of 2023 filed to permit the petitioners to file a single writ petition is allowed and disposed of. Consequently, other connected miscellaneous petitions are closed.

(S.V.G., CJ.)

(D.B.C., J.)

23.01.2024

Index : Yes/No

Neutral Citation : Yes/No



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THE HON'BLE CHIEF JUSTICE
AND
D.BHARATHA CHAKRAVARTHY, J.

(sra)

To

1. The District Collector,
Tiruvallur District, Tiruvallur 602 001.
2. The Revenue Divisional Officer,
O/o. The Revenue Divisional Officer,
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