

(2010) 02 MAD CK 0040

In the Madras High Court

Case No : Writ Petition No. 2864 of 2010

Mr. E. Raghupathy and Others

APPELLANT

Vs

The Managing Director, Tamil Nadu Housing Board, The
Executive Engineer and ADO, Anna Nagar Division, TNHB and
The Commissioner, Ambattur Municipality

RESPONDENT

Date of Decision : 23-02-2010

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2010) 02 MAD CK 0040

Hon'ble Judges : M. Jaichandren, J

Bench : Single Bench

Advocate : K.P. Chandrasekaran, for the Appellant; A. Vijayakumar, for R1 and R2 and I. Paranthaman, for R3, for the Respondent

Final Decision : Dismissed

Judgement

M. Jaichandren, J.—This writ petition has been filed praying for a writ of Mandamus to direct the third respondent not to enter into the

petitioners" land, in survey No. 296/2, measuring 1 acre and 17 cents.

2. It has been stated that the petitioners" grand father, A. Rathinam, had purchased certain patta land in Padi, Mugappair village, during the year,

1942, through a registered sale deed, dated 15.6.1942, bearing document No. 669 of 1942, on the file of the Sub Registrar"s office, Sembium.

The petitioners" grand father and their father were in absolute possession and enjoyment of the land bearing survey No. 296/2, measuring an extent

of 1 acre and 87 cents. The possession of the petitioners had been proved by the report of the Advocate Commissioner appointed by the District

Munsif Court, in O.S. No. 64 of 2007. While so, the third respondent is attempting to interfere with the peaceful possession and enjoyment of the

land belonging to the petitioners, in survey No. 296/2, having an extent of 1 acre and 17 cents. In such circumstances, the petitioners had preferred

the present writ petition before this Court, under Article 226 of the Constitution of India.

3. The main contention of the learned Counsel appearing for the petitioners is that the third respondent is not empowered to take possession of the

land, in survey No. 296/2, having an extent of 1 acre and 17 cents, when the suit, in O.S. No. 481 of 2009, is pending on the file of the District

Munsif Court, Ambattur. In fact, the second respondent had, illegally, gifted a portion of the land to the third respondent, when the writ petition has

been pending before this Court, in W.P. No. 32034 of 2007. Since, the petitioners had been in occupation of the land, in question for a number of

years and as they have been cultivating the said land, it is not open to the third respondent to disturb the peaceful possession and occupation of the

said land, by the petitioners.

4. The learned Counsels appearing for the respondents had submitted that the land in question had been acquired by the Tamil Nadu State

Government, in the year, 1972, for the purpose of the Ambattur Neighborhood scheme and the land had already been handed over to the Tamil

Nadu Housing Board. The land having been transferred to the Tamil Nadu Housing Board, for being utilised for the Ambattur Neighborhood

scheme, the petitioners have no right to claim that their possession and occupation of the land in question should not be disturbed by the

respondents. In fact, the land in question had already been utilised for the purpose of the Ambattur Neighborhood scheme. Therefore, there is no

merit in the writ petition.

5. In view of the submissions made by the learned Counsels appearing for the parties concerned and on a perusal of the records available, this

Court is of the considered view that the petitioners have not shown sufficient cause or reason to grant the reliefs, as prayed for by the petitioners in

the present writ petition.

6. It is not in dispute that the land in question had been acquired by the Tamil Nadu State Government in the year, 1972, for the purpose of

Ambattur Neighborhood scheme. Thereafter, the said land had also been handed over to the Tamil Nadu Housing Board, for the purpose of

implementing the said scheme. Since, the land in question had been utilised for the purpose for which it had been acquired, the request of the petitioners to re-convey a portion of the land to them had not been considered. In such circumstances, the prayer of the petitioners, for the grant of a writ of Mandamus, cannot be granted, in view of the decision passed by the Supreme Court in G.V. Krishna Setty v. Government of Tamil Nadu 2008 (4) CTC 657. In such circumstances, the present writ petition is liable to be dismissed. Hence, it is dismissed. No costs. Consequently, connected M.P. No. 1 of 2010 is closed.