

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13-7-2015

CORAM:

THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI
AND
THE HON'BLE MR.JUSTICE M.VENUGOPAL

W.P. No.8013 of 2015
M.P.No.1 of 2015

M. Anthonisamy ... Petitioner

Vs.

1. The District Collector,
Salem District, Salem.
2. The Revenue Divisional Officer,
Mettur, Salem District.
3. The Tahsildar,
Omalur Taluk,
Omalur, Salem District.
4. Regina Mary
5. Clara
6. Fathima ... Respondents

(RR-4 to 6 are impleaded as per order of the Court made in
M.P.Nos.2 to 4 of 2015 dated 13.7.2015)

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the respondents to remove the unauthorised constructions whatsoever made, anywhere in the Cart-track in S.No.211/7 in Kottamettupatti Village, Omalur Taluk, Salem District, and permanently prevent any such constructions therein as to enable the public at large to peacefully continue to use the cart-track therein.

For petitioner : Mr.T.Mohan
for Mr.M.Ravi

For Respondents 1 to 3 : Mr.P.S.Sivashanmugasundaram,
Special Government Pleader

For Respondents 4 to 6 : Mr.V.C.Selvasekaran

O R D E R

(Order of the Court was made by SATISH K. AGNIHOTRI, J.)

The petitioner said to be a permanent resident of Sekkarapatty, Mattukkaranoor Post, Omalur Taluk, Salem District, and owning property in Kottamettupatty Village, has filed this writ petition stating that unauthorised construction has been made in cart-track in S.No.211/7 in Kottamettupatti village and the authorities having been informed about the said encroachment, have not taken any steps for removal of the same. It is further stated that he understands that some bogus pattas have been granted by the authorities and by virtue of the said bogus pattas, the encroachers are in continuous possession of the cart-track. Petitioner, enclosing the notices and also the consequential order/notice passed under Section 6 of the Tamil Nadu Land Encroachment Act, 1905, submits that notwithstanding the final order/notice passed under Section 6 of the Act, no step was taken for removal of the encroachment.

2. Pursuant to the notice, the Tahsildar has come up with counter affidavit dated 9th July, 2015 stating as follows:

"2. I most respectfully submitted that I have joined in the third respondent office on 2.6.2015 A.N. That my predecessors to this office issued notice under Section 7 of the Tamil Nadu Land Encroachment Act, 1905 on 12.3.2015 and notice under Section 6 of the Act also issued on 25.6.2015. I inspected the disputed site on 5.7.2015 for further action and the encroachers therein submitted a petition wherein they have stated that they have obtained Patta from Head Quarters Tahsildar, Mettur and residing more than 3 decades. The encroachers further reported that they have also filed necessary application to implead themselves as respondent in the pending case."

3. Be that as it may, since enquiry has been fixed on 20th July, 2015 to verify the relevant documents, we are not inclined to interfere at this stage. However, we direct the respondents 1 to 3 to take consequential action immediately thereafter, without affording any other opportunity to the encroachers, if in enquiry it is found that the encroachment is unauthorised and illegal. Needless to state that the authorities are at liberty to verify the genuineness of the documents produced by the alleged encroachers.

4. The learned counsel appearing for the newly impleaded respondents submitted that respondents 4 to 6 are in continuous possession of the property on the basis of payment of tax and also electricity connection. We make it clear that payment of tax and grant of electricity connection do not confer any right or title over the land in question.

5. With the above observations and directions, the writ petition is disposed of. There will be an order of status-quo in respect of the construction till a decision is taken by the authorities, as directed above. No costs. Connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

True Copy

Sub Assistant Registrar

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To

1. The District Collector, Salem District, Salem.
 2. The Revenue Divisional Officer, Mettur, Salem District.
 3. The Tahsildar, Omalur Taluk, Omalur, Salem District.
- 1 cc to Government Pleader.Sr.No.35355

W.P. No.8013 of 2015

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