

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.12.2016

CORAM :

The Hon'ble MR.SANJAY KISHAN KAUL, CHIEF JUSTICE

AND

The Hon'ble MR.JUSTICE M.SUNDAR

W.P. Nos.25371 and 24480 of 2014
and M.P.Nos.1 and 1 of 2014

Mani .. Petitioner in both WPs.

-vs-

The Commissioner
Edapadi Municipality,
Edapadi, Salem District .. Sole Respondent in WP.No.
25371/2014 and R-3
in WP.24480/2014

1.The District Collector,
Salem District, Salem.

2.The Thasildar,
Edapadi Taluk, Edapadi,
Salem District. .. Respondents 1 & 2 in
WP.No.24480/2014

Petitions filed under Article 226 of the Constitution of India praying for issue of (i) WP.25371/2014 - Writ of Certiorari to call for the records pertaining to the notice dated 05.09.2014 in Na.Ka.No. 2905/2011/A2 and corrected notice dated 12.09.2014 in Na.Ka.No. 2905/2011/A2 issued by the respondent and quash the same; and (ii) WP.24480/2014 - Writ of Mandamus to direct the 2nd respondent to grant patta in favour of petitioner to the property in Survey No.80/1, situated at Door No.51/C, Kanara Street, Edapadi Village and Taluk, Salem District, by considering petitioner representation dated 22.4.2011.

For Petitioner : Mr.R.Marudhachalamurthy
For Respondents : Mr.M.Senthil Kumar, for sole
respondent in WP.25371/2014 and
for R-3 in WP.24480/2014
: Mr.R.Vijayakumar,
Addl.G.P. For RR 1 and 2 in
WP.24480 of 2014

COMMON ORDER

(Order of the Court was made by The Hon'ble Chief Justice)

The petitioner seeks patta in respect of the land encroached by him in S.No.80/1 situated at Door No.51/C, Kanara Street, Edapadi Village and Taluk, Salem District, totalling to 5.63 hectares, in which the petitioner is in possession of 550 sq.ft. with a small tiled house.

2.The stand of the respondents is reflected in the counter-affidavit of the Commissioner of Edapadi Municipality in the following terms:

'6.I state that the petitioner had already filed a suit in O.S.No.287/2012 on the file of the District Munsif Court, Sankagiri, Salem District with the same prayer in the writ petition and the same was dismissed on 24.06.2014 this respondent had contested the case and had marked the Town Survey Register true copy and had clearly stated that the place where the petitioner is residing is classified as Government Porambokku land and as per the Town Survey register the same is being used as ''Passage'' and as per ''A'' Register it is being classified as Grama Natham

7.I state that Thasildar by letter dated:-15/4/2014 had clearly stated that the petitioner encroached land is at Survey No.80/1 totalling to 5.63 Hectares in which the petitioner is in possession of 550 Sq.ft and had built a small tiled house and being residing around 15 years and the encroached land is Left side of Municipal road in Ward No.E, Block No.6, Town Survey No.1 with an extent of 1217 Square Meters and the land is being classified as ''Passage''.

8.I state that as per the Town Survey Register Survey No.80/1 it is clearly seen that the land is being utilized as ''Paathai'' and this clearly shows the land is being used as road and the petitioner cannot be granted patta as the land is a road. I state that the petitioner had stated that 5.63 hectare of land is in his possession and he is doing cultivation which is totally false.'

3.It is quite clear from the aforesaid that though the land may be Grama Natham, on the same being used as a passage, the respondents are not inclined to grant patta to the land.

4.In the aforesaid situation, there is no direction to be issued to either consider the representation of the petitioner or grant patta to the land.

5.Writ petitions are, accordingly, dismissed. No costs.
Consequently, M.P.Nos.1 and 1 of 2014 also stand dismissed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

sra

To

1.The Commissioner
Edapadi Municipality,
Edapadi, Salem District.

2.The District Collector,
Salem District, Salem.

3.The Thasildar,
Edapadi Taluk, Edapadi,
Salem District.

+2cc to Mr.R. Marudhachalamurthy, Advocate, S.R.No.72280, 72281
+2cc to Mr.M. Senthilkumar, Advocate, S.R.No.72418 & 72419

msm(CO)
md(22/12/2016)

सत्यमेव जयते W.P.Nos.25371 and 24480 of 2014

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