

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.07.2016

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G. RAMESH
and
THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

Writ Petition No.25090 of 2016
and
WMP.No.21490 of 2016

Rajendran ...Petitioner

Vs.

- 1.The District Collector,
Salem District,
Salem - 636 001.
 - 2.The Revenue Divisional Officer,
Attur Taluk,
Attur, Salem District.
 - 3.The Tahsildar,
Pethanaickenpalayam and Taluk,
Salem District.
 - 4.The Junior Engineer,
Public Works Department (Irrigation Section)
Pethanaickenpalayam,
Salem District.
- ...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents to issue patta to the petitioner for the lands measuring about 75 cents under his possession and enjoyment in S.No.191/1 in the Ethapur Village, Pethanaickenpalayam Taluk, Salem District.

For Petitioner
For Respondents

: Mr.S.Ayyathurai
: Mrs.A.Sri Jayanthi, SGP

ORDER

(Order of the Court was made by HULUVADI G. RAMESH,J.)

Heard Mr.S.Ayyathurai, learned counsel for the petitioner and Mrs.A.Srijayanthi, learned Special Government Pleader, who accepts notice on behalf of the respondents.

2. The prayer made in the writ petition is to issue a Writ of Mandamus directing the respondents to issue patta to the petitioner for the lands measuring about 75 cents under his possession and enjoyment in S.No.191/1 in Ethapur Village, Pethanaickenpalayam Taluk, Salem District.

3. According to the petitioner, he has been in possession and enjoyment of the lands measuring about 75 cents in S.No.191/1 in Ethappur Village, Pethanaickenpalayam Taluk, Salem District. He has paid land tax to the Tahsildar, for which, he was issued with B Memo. Since patta has been granted to the persons having lands on either side of the River Vasista beyond the river bed towards west from Ethappur Village, the petitioner applied for patta on 21.07.2000 to the Revenue Divisional Officer, Attur. However, he was not issued patta. While so, on the basis of the complaint lodged by one M.Soundarapandian alleging that the petitioner occupied the poramboke land on the river bed of the River Vasista, the third respondent directed the fourth respondent to take action for removal of encroachment. Pursuant to the same, the fourth respondent issued a notice dated 03.02.2015 under Section 7 of the Tamil Nadu Land Encroachment Act, 1905 (hereinafter referred to as 'Act') and thereafter, passed an order dated 25.02.2015 under Section 6 of the Act to one Neruppu @ Chinamma, who is the mother of the petitioner. Thereafter, the petitioner made a representation dated 28.03.2015 to the first respondent, requesting to issue patta in respect of his lands and the same is pending. Be that as it may, the fourth respondent issued a notice dated 22.06.2016 calling upon the petitioner and his mother to remove the encroachment, which compelled the petitioner to approach this Court with the present writ petition for the above stated relief.

4. Considering the facts and circumstances of the case, we are of the view that as against the impugned notice dated 22.06.2016 issued by the fourth respondent, the petitioner can file appeal/revision before the District Collector. Therefore, it is for the petitioner either to give reply to the notice issued by the fourth respondent or to file an appeal/revision before the first respondent and produce all the materials in support of his claim, within one month from the date of receipt

of a copy of this order. On receipt of the same, the authority concerned shall consider the same and pass necessary orders in accordance with law, after affording an opportunity of personal hearing to the petitioner as well as to all the necessary parties, if any, within a period of two months thereafter. Until a decision be taken by the authority concerned, the parties are directed to maintain status quo as on today.

5. Accordingly, the writ petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

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To

- 1.The District Collector,
Salem District,
Salem - 636 001.
- 2.The Revenue Divisional Officer,
Attur Taluk,
Attur, Salem District.
- 3.The Tahsildar,
Pethanaickenpalayam and Taluk,
Salem District.
- 4.The Junior Engineer,
Public Works Department (Irrigation Section)
Pethanaickenpalayam,
Salem District.

+ 1 CC to Mr.S.Ayyathurai, Advocate SR NO 40696

+ 1 CC to Government Pleader SR NO 41298

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