

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.09.2016

CORAM :

THE HONOURABLE MR.JUSTICE HULUVADI G. RAMESH
and
THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

Writ Appeal No.1236 of 2016
and
C.M.P. No.15944 of 2016

C. Vairamani ... Appellant/ 3rd Party

Vs.

1. Jayanthi Shanmuga Sundaram
2. Suganthi Ramasamy
rep. by registered
Power of Attorney Agent
Mr. R. Suresh
No.9A Rajaji Road, Salem-7. ... Respondents/ Petitioners
3. State of Tamil Nadu
rep. by its District Magistrate
and the District Collector
Salem District.
4. The Commissioner of Police
Salem City, Salem.
5. The Commissioner
Salem City Municipal Corporation
Salem. ... Respondents/ Respondents

Writ Appeal under Clause 15 of the Letters Patent to set aside the order dated 23.11.2015 passed in W.P No.29129 of 2014 on the file of this Court.

Petition praying to issue a Writ of Mandamus or any others appropriate Writ, order or direction of like nature by directing all the respondents herein to stop forthwith and prevent any illegal cremation and other illegal activities and encroachments in and upon the petitioners land measuring an extent of 2.44 Acres comprised in Survey No.27/2C2 in Bodinaickenpatti Village situated along and abutting the Suramangalam Main Road (Salem

Junction to Salem Market) within the Salem District Salem Registration Sub District Salem City Tamilnadu which will enable the petitioners to retrieve the said lands free from any kind of alienation or encumbrance or encroachment and to give protection for securing their property and thus prevent any acts of illegality committed therein by the respondents their men or agents or servants.

For Appellant : Dr. A. Thiyagarajan, Senior Counsel
for Mr. S. Ramesh Kumar

For Respondents: Mr. Jayesh B. Dolia
for M/s. Aiyar & Dolia for R1 & R2

Mr. P. S. Sivashanmugasundaram
Spl. G.P. for R3 to R5

J U D G M E N T

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

With the consent of learned counsel appearing for the parties, this Writ Appeal is taken up for final disposal.

2. Heard learned counsel for the appellant and the respondents.

3. This Writ Appeal is preferred by the Intervenor/ third party Villager on the ground that the property belonging to the respondents 1 and 2, is used as a burial ground for several years by the villagers and as such, seeks to set aside the order dated 23.11.2015 passed in W.P No.29129 of 2014 by this Court.

4. The respondents 1 and 2 filed the Writ Petition No.29129 of 2014, seeking for a Mandamus, to prevent any cremation and other illegal activities and encroachments, on their land measuring an extent of 22.44 acres, comprised in S. No. 27/2C2 in Bodinaickenpatti Village, Suramangalam Main Road, Salem and to retrieve the lands belonging to them, from any kind of alienation. The grievance of the writ petitioners was about the illegal burial of dead bodies in their land and regarding a large raw sewage channel cutting across their land. The Commissioner of Salem Corporation, in his counter has virtually conceded to the request of the writ petitioners. Hence, learned Single Judge has rightly passed the order, directing the respondents to comply with his undertakings in the counter affidavit, within a stipulated time.

5. In view of the above, the appellant herein, being a third party has no right to seek for a Mandamus, to reserve the private land of the writ petitioners for a burial ground, since the property neither belongs to the Government nor the Villagers. If the villagers are in need of a burial ground, they can request the Government to provide government lands or make an alternate arrangement for cremation. It is strange to file a petition seeking to set aside the order and stay the proposals of the respondents, when the land is a private property and the Revenue had accepted to it. The third party has no locus standi to approach this Court, on appeal. Any direction issued by the police shall not take cognizance and the appellant has to approach the Revenue Authorities, in this regard, for appropriate remedy.

6. The Writ Appeal is dismissed, in the above terms. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

1. The District Magistrate
and the District Collector
Salem District.
2. The Commissioner of Police
Salem City, Salem.
3. The Commissioner
Salem City Municipal Corporation
Salem.

+1cc to M/S.S.Rameshkumar, Advocate Sr.56006

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in
W.P. No. 29129 of 2014

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srg 03/11/2016