

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 27.03.2017
CORAM
THE HON'BLE MR.HULUVADI G.RAMESH, ACTING CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE RMT.TEEKAA RAMAN

W.P.No.3598 of 2017

B.V.Nagaraj

.. Petitioner

Vs.

- 1 State
rep. by its Principal Secretary
Housing and Urban Department
Fort St. George, Chennai 600 009.
- 2 The Commissioner
Salem Municipal Corporation
Salem 636 001
- 3 The Assistant Commissioner
Salem Municipal Corporation
Block 10 Ward AD
Salem 636 007
- 4 Director General of Police
Law and Order
Beach Road, Mylapore,
Chennai 600 004
- 5 The District Collector
Salem District
Salem 636 001
- 6 The Commissioner of Police
Salem City
Salem 636 002
- 7 The Deputy Commissioner of Police
Law and Order
Salem City
Salem 636 002
- 8 The Deputy Commissioner of Police
Traffic and Crime
Salem City
Salem 636 002

9 The Assistant Commissioner of Police
Traffic Investigation
Sevvapettai
Salem 636 002

10 The District Revenue Officer
Salem District
Salem 636 001

11 Tahsildar
Salem 636 007.

.. Respondents

PRAYER: Petition under Article 226 of the Constitution of India for issuance of a writ of mandamus directing the respondents 2 and 3 to demolish the illegal unauthorized construction put up by the 9th respondent in Survey No.16 without obtaining necessary plan approval from appropriate authorities/ without obtaining exemption from Government.

For Petitioner : Mr.S.Prabakaran
Senior Counsel
for M/s.A.Ramesh Babu

For Respondents : Mr.R.Vijayakumar
Addl. Government Pleader
for respondents 1, 4 to 10
Mr.S.Diwakar
for respondents 2 and 3

ORDER

(Order of the Court was made by the Acting Chief Justice)

Mr.R.Vijayakumar, learned Additional Government Pleader takes notice for respondents 1, 4 to 10. Mr.S.Diwakar, learned counsel takes notice for respondents 2 and 3.

2. Heard the learned counsel for the parties.

3. The petitioner has filed this writ petition seeking issuance of a Writ of Mandamus directing the respondents 2 and 3 to demolish the illegal unauthorized construction put up by the ninth respondent in Survey No.16 without obtaining necessary plan approval from appropriate authorities/ without obtaining exemption from Government.

4. It is the case of the petitioner that he and others are owners of the property measuring an extent of 30,400 square feet in S.No.16. At the time of re-survey, the land was wrongly entered as Government land, but after objections were raised, it was declared as private land. The patta issued was cancelled. The land owners initiated proceedings in Civil Court, wherein the land was declared as theirs. While so, the ninth respondent encroached into the property and unauthorisedly constructed a building without any planning permission or approved plan. Though the petitioner and other owners have submitted representation, it was not considered. Hence, the petitioner has filed the present petition seeking the relief stated supra.

5. The ninth respondent has filed the counter stating that the police station was constructed in the year 2003-2004 in the land allotted to the Police Department, out of public money by the Tamil Nadu Police Housing Corporation and the construction was duly approved in G.O.Ms.No.107 Home (modern) Department, dated 08.2.2002. The petitioner has no authority to question the constructions, which was built long back. The proper course for getting possession of the land is before the civil court and prays for dismissal of the petition.

6. It appears that as per the submission of the learned Senior Counsel for the petitioner, the property in question belongs to the petitioner and the construction of a police station in the land in S.No.16 is without obtaining necessary plan approval from appropriate authorities and also without obtaining exemption from the Government.

7. Per contra, the learned Additional Government Pleader, on instruction submits that the construction was made only after getting the land allotted to the Police Department and the construction was done out of the public money by the Tamil Nadu Police Housing Corporation. He further submits that the petitioner has no authority to question the said construction which was built long back in 2003-2004.

8. On a perusal of the pleadings, we find that there is a title dispute in respect of the property in question which cannot be decided in this petition. According to petitioner, the property in question belongs to him and others, whereas, the respondent Police Department states that the property in question was allotted to the Police Department and the construction was made as per the planning permission.

9. In such view of the matter, we direct the petitioner to produce all the relevant documents in respect of the property in question before the District Collector, Salem showing that the

property belongs to the petitioner and others. On examination of the documents and relevant records, if the Collector come to the conclusion that the property in question is a private property of the petitioner and others, then the District Collector, Salem to take steps to acquire the property, now utilised by the ninth respondent and then determine the market value and pay the compensation as per law.

10. The petitioner also prayed that other than the constructed area, the Police Department not to deal with the other area. It is for the District Collector, Salem to look into said aspect also.

11. The writ petition, accordingly, stands disposed of. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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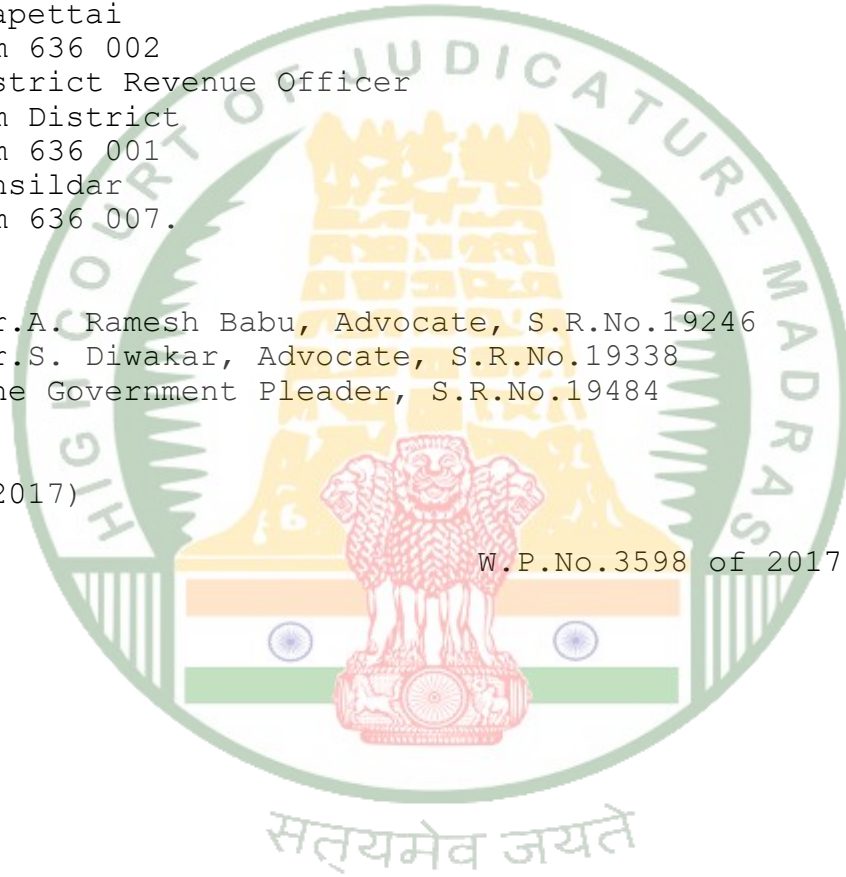
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+2cc to Mr.A. Ramesh Babu, Advocate, S.R.No.19246
+1cc to Mr.S. Diwakar, Advocate, S.R.No.19338
+1cc to the Government Pleader, S.R.No.19484

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