

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:11.12.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MR. JUSTICE SATRUGHANA PUJAHARI

WP No.29205 of 2014

Athipatti and Suriyur Vivasayigal,
Vivasayakooligal and Vivasaya Sangam
Represented by its President
Mr.D.Kadhirvel
Athipatti, Suriyur, Kural Natham Post
Panaimarathupatti Via,
Salem District - 636 204.

..Petitioner

Vs

1. The District Collector,
Salem.
2. The Commissioner,
Salem Municipal Corporation,
Salem, Salem District.
3. The District Revenue Officer,
Salem.
4. The Revenue Divisional Officer,
Salem.
5. The Tahsildar,
Salem District.
6. The Zonal Deputy Director,
Land Survey Records Department,
Coimbatore.
7. The Cheif Engineer,
Salem Municipal Corporation,
Salem.

..Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the respondents herein to redeliver the lands in No.125, Athipatti Village, No.126, Suriyur Village, Salem District, to the members of the petitioner association.

For petitioner : Mr.A.Thiagarajan
For Respondents : Mr.A.N.Thambidurai
1,3,4,5 and 6 Special Government Pleader

ORDER

[Order of the Court was delivered by M.SATHYANARAYANAN, J.]

By consent the writ petition is taken up for final disposal.

2 The petitioner claims to be the President of the Petitioner Association and has sworn to the affidavit filed in support of this writ petition. He would aver that the petitioner Association is a registered Association bearing Registration No.52/2014 and having 715 members. It is the claim of the petitioner Association that in the following villages the following extent of lands available :-

S.No.	Name of the Village	Extent of Land
1	Athipatti	1800 Acres 12 cents
2	Suriyur	916 Acres 68 Cents
3	Revenue Forest	1071 Acres 66 Cents
Total extent		3388 Acres 46 cents
Extent of land belonging to the Salem Corporation for Govindavadi Tank		834 Acres 45 Cents
Balance extent of land remaining in Suriyur and Athipatti		2554 Acres 01 cents

and as per G.O.Ms.No.2838, dated 29.11.1920, an extent of 834.45 acres of land forming the water spread and catchment area of Panamarathupatti Tank, Salem District. The said lands have been allotted / alienated to the Municipal Council Salem in connection with its water works and the G.O. also made it very clear that the land shall be used for the purpose of water works and for no other purposes.

3. The petitioner would further state that re-survey was also done and the respondents claim that the survey No.151 was sub-divided in the year 1937 and survey No.151/1A consisting of 2128.87 acres (851.55.0 Hectares) were classified as panamarathupatti Eri and as per Village 1905 Re-survey Settlement Register, there are 325 survey numbers and 158 Pattadars, which consists of Gramanatham land, four tanks, two ponds and other things exists.

4. It is further state by the petitioner that in the year 2004, the Government had initiated action to evict the encroachers in the land admeasuring to an extent of 834.45 acres which is classified at water body and while doing so, the lands which are not forming part of catchment area have also been taken possession and in that process, the houses put up by the members of the petitioner Association have also been demolished and from that time onwards, the petitioners were repeatedly submitting representations to concerned respondents, praying for restoration and the possession of the land in question and also sought for compensation for unauthorised eviction and demolition of superstructures and since the said representations failed to invoke any kind of response, the petitioners are constrained approach this Court by filing the writ petition.

5 The writ petition was listed admission of 10.02.2017 and on that date, the counsel for the petitioners was directed to file copies of the affidavit, petition and the typed set of documents on the ground that the papers were not available.

6 The 5th respondent has filed the counter affidavit stating among other things that the survey No.151/1A is classified as a Government poramboke and the petitioners themselves had admitted that they have removed from the lands already and not now residing and further, the land in question has also been alienated in favour the Municipality, Salem Corporation for the formation of Panamarathupatti Tank and it is also water course and water used to collect during rainy season.

7 The learned counsel appearing for the petitioner-Association would submit that Government is expected to follow due to process of law and even for the sake of arguments, without admitting that the petitioners are encroachers, the provisions of the Tamil Nadu Land Encroachment Act, 1905, should be followed and without doing so, during the year 2004, unauthorised eviction has been effected and that apart, the superstructures put up by them also demolished unauthorisedly without due course to law and hence prays for appropriate orders.

8 Per contra Mr.A.N.Thambidurai, learned Special Government Pleader, appearing for the officials respondent would contend that admittedly the petitioners have been dispossessed in the year 2004 and apart from making claim by making repeated representations, had failed to approach this Court at the appropriate time and as such, the writ petition is hit by delay and laches and prays for dismissal of this writ petition.

9 The Court has considered the rival submissions and also perused the materials placed before it.

10 A perusal of the materials would prima facie indicate that the petitioners were encroachers upon the land in question and as per their own admission, they were dispossessed in the year 2004 and it is their claim there have been repeatedly approaching the Government authorities for authorisation and possession of the land and prayed for compensation with regard to the unauthorized demolition of the superstructures put up by them.

11 The additional typed set of documents filed along with the writ petition did not contain any details as to the extent of the land in survey Number which were in possession of the members of the petitioner's Association and the door numbers of the premises they were in occupation which according to the learned counsel appearing for the petitioners have been demolition unauthorizedly without recourse to law.

12 Therefore, the writ petition is bereft of any material particulars and that apart, the alleged unauthorized eviction and demolition took place in the year 2004 and the members of the petitioner Association had chosen to approach this Court only in the year 2014. Therefore the claim of the petitioner Association appears to be stale and also hit by delay and laches.

13 In the considered opinion of this Court, the remedy open to the petitioner Association, if any, is to invoke Common Law remedy, that too, subject to law of limitation.

14 In the light of the reasons assigned above, the writ petition stands dismissed. No costs.

-s/d-

Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

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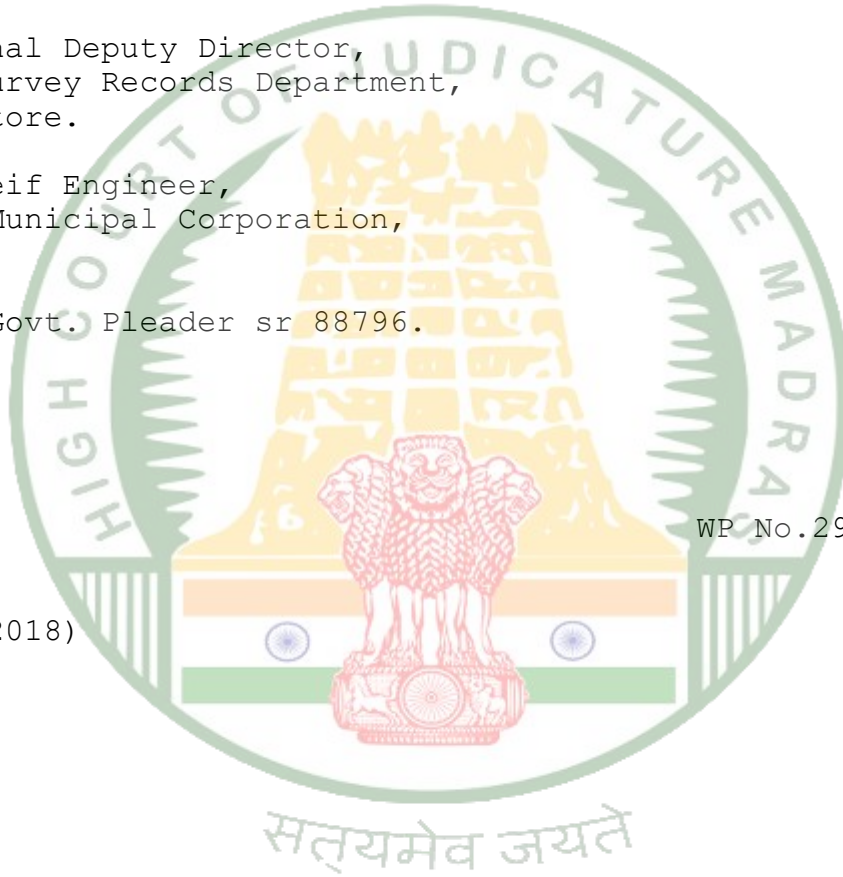
To

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Coimbatore.
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Salem.
- +1 CC to Govt. Pleader sr 88796.

GJ(CO)
SP(19/01/2018)

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