

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 03.11.2017

CORAM

THE HONOURABLE MR. JUSTICE RAJIV SHAKDHER

AND

THE HONOURABLE MR. JUSTICE N.SATHISH KUMAR

WP.No.28093/2017

V.Maharajan

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Petitioner

Versus

1.The District Collector
Salem District, Salem.

2.The District Revenue Officer
Salem District, Salem.

3.The Tahsildar
Salem South Taluk
Salem District.

4.S.Parameshwaran

5.A.Kannan

..

Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus, directing the respondents 1 to 3 to remove the encroachments made by the 4th and 5th respondents in Thirumani Muthu Aaru Anai Vaikal in S.NO.27/3, New TS.No.16/3, Annathanapatti Village, Salem South Taluk, Salem District in view of the petitioner representation dated 10.07.2017.

For Petitioner : Ms.Shase for Mr.M.Guruprasad

For RR 1 to 3 : Mr.A.N.Thambidurai, Spl.GP

ORDER

[Order of the Court was made by RAJIV SHAKDHER, J.,]

1 Issue notice. Mr.A.N.Thambidurai, learned Special Government Pleader accepts notice on behalf of the respondents 1 to 3.

2 For the moment, no notice is required to be issued to the respondents 4 and 5 in view of the directions that we intend to pass via the instant order.

3 With the consent of the learned counsel for the parties, the writ petition is taken up for hearing and final disposal.

4 The prayer made in the writ petition is as follows:-

“Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus, directing the respondents 1 to 3 to remove the encroachments made by the 4th and 5th respondents in Thirumani Muthu Aaru Anai Vaikal in

*S.NO.27/3, New TS.No.16/3, Annathanapatti Village,
Salem South Taluk, Salem District in view of the
petitioner representation dated 10.07.2017.”*

5 The contention of the learned counsel for the petitioner is that the petitioner is an Agriculturist whose lands are located in TS.Nos.16/1 and 16/2 respectively, at Annathanapatti Village, admeasuring approximately 2 acres. It is the case of the petitioner that the respondents 4 and 5 also possess agricultural lands, which are located in SR.NO.26/1 and 26/2 respectively. The petitioner claims that the said respondents have encroached upon the "Odai" [water channel] and have planted trees. It is also averred that the said respondents have destroyed the cart track adjacent to the Odai. It is stated that the cart track is the only approach path available for gaining access to the petitioner's lands.

6 It is in these circumstances, that the petitioner seeks issuance of a direction to respondents 1 to 3, i.e., the official respondents, for removal of the encroachments made by the respondents 4 and 5, i.e., the private respondents.

6.1 The petitioner claims that a representation in this behalf, was made on 10.07.2017 with the official respondents which has not been actioned as yet.

7 Having regard to the nature of the pleadings and the prayer made in the writ petition, we are inclined to direct the respondents No.1 to 3 to carry out an enquiry and ascertain the veracity of the claims made by the petitioner. In this behalf, the respondents 1 to 3, will be required to issue prior written notice to the respondents 4 and 5. The respondents 1 to 3 shall grant an oral hearing, not only to the petitioner, but also to the respondents 4 and 5 before passing a final directive in the matter. The order passed, will contain reasons.

8 The aforesaid exercise shall be completed within a period of six weeks from the date of receipt of a copy of this order.

9 The copies of the order passed by the respondents 1 to 3, shall be served upon the petitioner as well as to the respondents 4 and 5.

10 The writ petition stands disposed of in terms of the aforesaid directions. No costs.

[RSAJ] [NSKJ]
03.11.2017

NOTE: The Registry is directed to dispatch
the copy of the order to the respondents 4 and 5.

AP

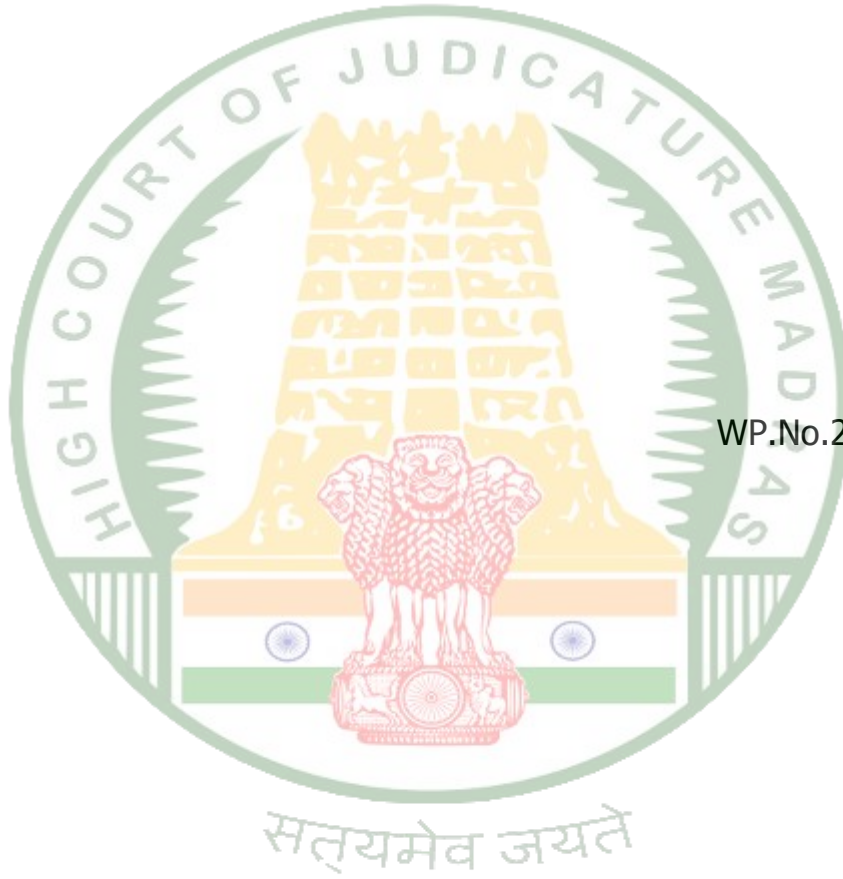
To

- 1.The District Collector
Salem District, Salem.
- 2.The District Revenue Officer
Salem District, Salem.
- 3.The Tahsildar
Salem South Taluk
Salem District.



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RAJIV SHAKDHER, J.,
AND
N.SATHISH KUMAR, J.
AP



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