

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 17.11.2017

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE N.SESHASAYEE

WP.No.29476/2017

N.Shanmugam

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Petitioner

Versus

1.The District Collector
Collectorate Buildings
Salem 636 001.

2.The Revenue Divisional Officer
Collectorate Building
Salem 636 001.

3.The Tahsildar [Salem West]
Suramangalam, Salem 636 005.

4.Ammu

5.Raji

6.Raji @ Ammasi

7.Kamaraj

8.Darmalingam

9.Sekar @ Siddaiyan

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Respondents

Writ petition filed under Article 226 of the Constitution of India, praying for a writ of mandamus directing the respondents especially the 3rd respondent to consider the petitioner's representation dated 28.08.2017 received by the respondents on 31.08.2017 respectively and suitable action within the time frame as may be stipulated by this Court.

For Petitioner : Mr.D.Shivakumaran

For RR 1 to 3 : Mrs.M.E.Rani Selvam, AGP

ORDER

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

By consent, the writ petition is taken up for final disposal. Mrs.M.E.Rani Selvam, learned Additional Government

Pleader accepts notice on behalf of the respondents 1 to 3.

2 The petitioner in the affidavit filed in support of this writ petition, would aver among other things that the land admeasuring to an extent of 0.96.0 Hectare [2.22 acres] of agricultural lands comprised in S.No.12/1, Kothanur Village, Salem Taluk and District, originally belongs to his paternal grandfather and after his demise, his father has succeeded to the said estate and was in continuous possession and enjoyment of the same and he in turn, sold an extent of 21 ½ cents to one of his sisters, viz., Alamelu, on 30.06.2008 and sold yet another extent of 34 cents to another sister, viz., Parvathi and in respect of the balance lands, he had executed a registered Will dated 08.05.2009 bequeathing 1.11 acres out of a larger extent of 2.22 acres in favour of the petitioner herein. The petitioner, after the demise of his father on 12.05.2010, has succeeded to the said estate and also effected necessary mutation in the revenue records and is in continuous possession and enjoyment of the same. According to the petitioner, on the Eastern side of the lands in S.NO.12/1, Village Natham poramboke land is located and it is located in S.No.88/5 of the same village and a Panchayat School is also in existence on the said land and apart from that, there is a kacha road measuring 24 feet wide on the Eastern side of the lands in S.Nos.88/4 and 5. It is the specific case of the petitioner that it is the only access to reach the lands in S.No.12/1. The grievance now expressed by the petitioner is that few persons which include the respondents 4 to 9, had encroached upon the said kacha road and started putting up constructions and in this regard, a representation dated 28.08.2017 was submitted by the petitioner to the respondents 1 to 3 and in spite of receipt and acknowledgment, no steps have been taken so far to halt the said construction and therefore, the petitioner is constrained to approach this Court by filing the present writ petition.

3 The learned counsel for the petitioner has drawn the attention of this Court to the typed set of documents, especially the photographs and would submit that though as per the revenue records, it is a kacha road, which is being used by the public, the private respondents without authorisation and taking law into their own hands, had started putting up construction without any planning or permission and though the said fact was brought to the knowledge of the official respondents, no action has been taken to abate the said nuisance and left with no other option only, the petitioner has filed this writ petition.

4 The Court heard the submissions of Mrs.M.E.Rani Selvam, learned Additional Government Pleader appearing for the respondents 1 to 3 and also perused the materials before it.

5 Though the petitioner has prayed for a larger relief, this Court, in the light of the above facts and circumstances and without going into the merits of the claim projected by the petitioner, directs the 3rd respondent to put the petitioner as well as the respondents 4 to 9 on notice and cause inspection of the land in question and depending upon the result of the same, shall take/initiate necessary further action in accordance with law within a period of ten weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner as well as to the respondents 4 to 9 herein.

6 The writ petition stands disposed of with the above direction. No costs.

Sd/-
Deputy Registrar

//True copy//

Sub Assistant Registrar

AP

To

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Collectorate Buildings
Salem 636 001.

2.The Revenue Divisional Officer
Collectorate Building
Salem 636 001.

3.The Tahsildar [Salem West]
Suramangalam, Salem 636 005.

+lcc to Mr.D.Shivakumaran, Advocate SR.No.81954

+lcc to Government Pleader SR.No.82489

WP.No.29476/2017

GN(05/12/2017)