

IN THE HIGH COURT OF JUDICATURE AT MADRAS  
DATED : 23.08.2017  
CORAM

THE HONOURABLE Mr.JUSTICE M.SATHYANARAYANAN  
and  
THE HONOURABLE Mr.JUSTICE N.SESHASAYEE

W.P.No.36183 of 2007  
and MP.No.1 of 2007

1.M.Mariappan  
2.M.Selvam  
3.M.Rajendran

.. Petitioners

Vs.

1.The Commissioner  
Secretary to Government,  
Revenue Department,  
Fort St.George, Chennai - 600 009.

2.The District Collector  
O/o. District Collectorate, Salem - 1.

3.The Tahsildar  
Taluk Office, Salem -1.

4.The Commissioner  
Salem Corporation, Salem - 1.

... Respondents

Prayer : Writ Petition filed under Article 226 of the  
Constitution of India, praying for an issuance of Writ of  
Mandamus, forbearing the respondents or their menor agents or  
any other person or persons acting on their behalf from  
demolishing the petitioner's residential house bearing door  
No.141/49 X/3, Karikalan Street (Kannaa Street), Sevvapet,  
Salem-2.

For Petitioner : Mr.A.Thamizharasan  
For Respondents : Mr.R.Vijayakumar  
Addl. Government Pleader  
[for R1 to R3]  
Mr.S.Diwakar [ for R4]

O R D E R

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

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

2. The petitioners, in the affidavit filed in support of this petition, would aver among other things that they are in possession and enjoyment of the property bearing Door No.No.141/49 X/3, Karikalan Street (Kannar Street), Sevvapet, Salem-2, since 1973 onwards, and paying B-memo charges for penalty. They belong to below poverty line category and are poor Adhi Dravidars. The grievance expressed by the petitioners is that the respondents 2 to 4, under the guise of classifying the land as river poromboke, has taken urgent steps to evict them without resorting to due process of law and also without giving alternative accommodation and hence, came forward to file this writ petition.

3. The third respondent has filed the counter affidavit and stated among other things that the petitioners have encroached upon the S.No.I/I classified as River Poromboke and their encroachment having not been brought into Village Accounts as on date, it should be treated as illegal encroachment and the petitioners are liable to be evicted. It is further stated by the said Officials that illegal encroachment in the Water Course Poromboke will be evicted without giving any notice contemplated under the Land Encroachment Act, and the land is required for public purpose of forming Sewerage and the petitioners cannot claim any title over the illegal encroachments.

4. This Court has considered the rival submissions and perused the materials before it.

5. It is the specific case of the petitioners that they are encroachers in the property bearing Door No.No.141/49 X/3, T.S.No.1/1 at Karikalan Street (Kannar Street), Sevvapet, Salem-2, and are in continuous possession and enjoyment of the same for very long years, and that they belonged to Scheduled Caste Community, and below poverty line. Though the third respondent, in his counter affidavit, took a stand that the land in question has been classified as River Poromboke and the fact remains that it is allocated for public purposes for forming sewerage. However, it is brought to the knowledge of this Court by the learned counsel for the petitioners that though "River

Manimutharu" in existence was running through Salem Town, but as on date, only sewage water is flowing in the said river area, and it no longer remains as river and its width is also reduced.

6. In the light of the above facts and circumstances and essentially that the petitioners belong to landless Scheduled Caste Community and that they are in poor economic background, this Court is of the considered view that the respondents before evicting them, have to follow the due process of law and if possible, should consider their request for alternative accommodation.

7. In the result, the writ petition is disposed of and the respondents 2 to 4 are directed to follow the due process of law by issuing individual notices to the petitioners under the relevant provisions of law, and after getting their responses, the respondents shall pass orders on merits and in accordance with law as expeditiously as possible and till such time, they shall not disturb the possession and enjoyment of the petitioners. The petitioners are also at liberty to make individual representations - praying for alternative accommodation. In the event of receipt of such recommendation, the same shall be considered and disposed of by the respondents 2 to 4, in accordance with law as expeditiously as possible. It is also made clear that the petitioners, till the consideration of removal of encroachment and alternative accommodation, shall not create any third party rights in respect of the property in question and shall not commit any further encroachments. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To:

1.The Commissioner  
Secretary to Government,  
Revenue Department,  
Fort St.George, Chennai - 600 009.

2.The District Collector  
O/o. District Collectorate, Salem - 1.

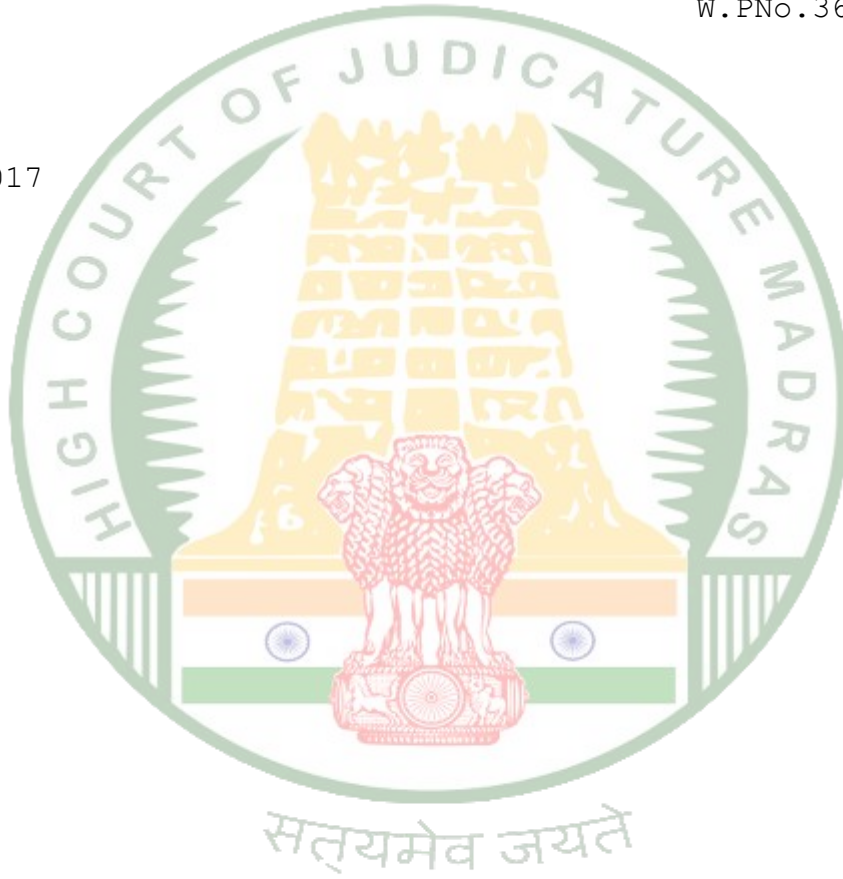
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Taluk Office, Salem -1.

4.The Commissioner  
Salem Corporation, Salem - 1.

+3 ccs to Mr.A.Thamizharasan Advocate sr 60901

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