



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.08.2017

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD) No.15618 of 2017

and

W.M.P. (MD) Nos.12347 to 12349 of 2017

D.Gnanaraj : Petitioner

Vs.

- 1.The Salt Commissioner,
O/o. Salt Commissioner,
2A, Lavan Marg, Jhalana Doongri,
Jaipur-302 004.
- 2.The Deputy Salt Commissioner,
O/o. Deputy Salt Commissioner,
26, Haddows Road,
Shastri Bhawan, Chennai.
- 3.The Assistant Salt Commissioner,
O/o. Assistant Salt Commissioner,
No.80, George Road,
Tuticorin-628 001.
- 4.The Additional Secretary (Technology),
Housing and Urban Development Department,
Secretariat, Fort St. George,
Chennai-9.
- 5.The Director,
Town and Country Planning Department,
Egmore, Chennai.
- 6.The Deputy Director,
Town and Country Planning Department,
Tirunelveli.

: Respondents

PRAYER: Writ Petition is filed under Article 226 of the
Constitution of India to issue a Writ of Certiorari and Mandamus,
to call for the records pertaining to the impugned order dated



16.08.2017 passed/pasted in the petitioner's premises and quash the same and consequently, forbear the respondents from interfering with the peaceful possession and enjoyment of the petitioner without following due process of law.

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For Petitioner : Mr.A.R.L.Sundaresn,
Senior Counsel,
For Mr.J.Anandkumar
For Respondents 1to3: Mrs.S.Srimathy,
For Mr.S.M.S.Johnny Basha
For Respondents 4to6 : Mr.M.Govindan,
Special Government Pleader

O R D E R

[Order of the Court was made by K.K.SASIDHARAN, J.]

This Writ Petition is directed against the notice affixed by the Salt Department, indicating that the land in R.S.Nos.1/2B (P) and 4/2B(P) at Mullakadu Village has been taken possession by the Salt Department on 16 August, 2017, pursuant to the order dated 08 August, 2017 in W.P.(MD)No.5274 of 2014 on the file of the Madurai Bench of Madras High Court.

2. The petitioner purchased the land in Survey Nos.1/2A2, 4/2A2, 4/2C2A and 1/2C1 by registered document dated 20 September, 2016. The land owned by the Salt Department in Survey Nos.1/2B and 4/2B, which lies in the middle, was in the possession and enjoyment of his vendor. According to the petitioner, he took possession of the land on 20 September, 2016. Subsequently, the petitioner came to understand that a portion of the land in Survey Nos.1/2B and 4/2B, was the subject matter of litigation in W.P. (MD)No.5274 of 2014. The land was taken possession by the Salt Department on 16 August, 2017. The petitioner, therefore, filed the Writ Petition challenging the notice affixed by the Salt Department, indicating the factum of taking possession.

3. The learned Senior Counsel for the petitioner contended that the petitioner was not aware of the pending litigation and as such, there was no occasion for him to file an application for impleading in W.P.(MD)No.5274 of 2014. The learned Senior Counsel contended that the vendor of the petitioner was in possession of the middle portion of the land in Survey Nos.1/2B and 4/2B and as such, the petitioner took possession of the said land. The Salt Department was, therefore, not correct in taking possession without issuing notice to the petitioner.

4. We have also heard the learned Standing Counsel for the respondents 1 to 3 and the learned Special Government Pleader appearing on behalf of the respondents 4 to 6.

<https://hcservices.ecourts.gov.in/hcservices/>

5. The petitioner purchased about 4.84 Acres of land in various survey numbers at Mullakadu Village. The predecessor-in-



interest of the petitioner encroached upon a portion of the land owned by the Salt Department in Survey Nos.1/2B and 4/2B. The Salt Department, therefore, issued notice dated 28 February, 2014, calling upon Thiru.T.P.S.Ponkumaran, vendor of the petitioner, to remove the encroachment, failing which, it was indicated that he would be summarily evicted as per the rules in force. The notice was challenged by the vendor of the petitioner in W.P.(MD)No.5274 of 2014.

6. The petitioner in W.P.(MD)No.5274 of 2014 after obtaining interim order constructed a building without obtaining planning permit. When the Writ Petition came up for final disposal, the learned counsel for the petitioner in W.P.(MD) No.5274 of 2014 submitted that he is not pressing the Writ Petition. The learned counsel for the Salt Department opposed the said prayer by contending that only during the currency of the Writ Petition, building was constructed and as such, the Court should direct the parties to maintain *status quo ante*. We, therefore, rejected the prayer to withdraw the Writ Petition.

7. The materials produced before us in W.P.(MD)No.5274 of 2014 clearly demonstrated that the writ petitioner in the said Writ Petition was an encroacher. There was no building at that point of time. The writ petitioner constructed a building after obtaining interim order from this Court. The order directing parties to maintain *status quo* was misused by the vendor of the petitioner and he constructed an illegal building. It was the said building with the land, which was taken possession by the Salt Department.

8. The petitioner is pleading ignorance of the earlier proceedings. The vendor is not a party to this Writ Petition. We have already arrived at a conclusion in W.P.(MD)No.5274 of 2014 that the portion of the land in Survey Nos.1/2B and 4/2B belongs to the Salt Department. The land is classified as Uppankarai. The revenue documents also support the case pleaded by the Salt Department.

9. The petitioner purchased land as well as litigation. The vendor of the petitioner by making use of the interim order completed the construction and thereafter, sold the land to the petitioner. It was only after taking possession of the disputed land by the Salt Department, the petitioner has come to the scene. The petitioner was sitting on the fence and he was watching the entire proceedings. It was only when the Salt Department acted swiftly to take possession, the petitioner has come up with this Writ Petition. There is absolutely no merit in the contention of the petitioner. The property admeasuring 0.6937 Acres in R.S.No.1/2B(P) and R.S.No.4/2B(P) of Mullakadu Village is the property of the Salt Department. The petitioner has no justifiable claim in respect of the said property. We, therefore, do not find any reason to entertain this Writ Petition.



10. In the upshot, we dismiss the Writ Petition. No costs. Consequently, the connected miscellaneous petitions are closed.

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Sd/-

Assistant Registrar(T&P)

Sub-Assistant Registrar

To:

1.The Additional Secretary (Technology),
Housing and Urban Development Department,
Secretariat, Fort St. George,
Chennai-9.

2.The Director,
Town and Country Planning Department,
Egmore, Chennai.

3.The Deputy Director,
Town and Country Planning Department,
Tirunelveli.

+One cc to M/s.J.Anandkumar, Advocate, SR.No.73299
+One cc to Mr.S.M.S.Johnny Basha, Advocate, SR.No.73275
+One cc to The special Government Pleader, SR.No.73915

SML

RL/7C/2P/SV/MMS/SAR1/15/9/2017

Order made in
W.P. (MD) No.15618 of 2017

Dated:
21.08.2017