

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.07.2018

CORAM:

THE HONOURABLE MR. JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.A.No.899/2018 and CMP.No.7850/2018

Marimuthammal

... Appellant/Petitioner

Vs

1. The District Collector,
Salem, Salem District.
2. The Tahsildar,
Omalur, Omalur Taluk,
Salem District.
3. The Executive Engineer,
Public Works Department-cum-
Water Resource Organisation,
Omalur, Omalur Taluk,
Salem District.
4. The Village Administrative Officer,
Tenishpettai Village and Post,
Omalur Taluk, Salem District.

... Respondents/Respondents

Prayer :

Writ Appeal filed under Clause 15 of the Letter Patent against the order dated 20.02.2018 made in W.P.No.27215/2013 by a learned Single Judge.

W.P.No.27215 of 2013 :-

Writ Petition is filed under Article 226 of the Constitution of India, seeking for a writ of mandamus, directing the respondents not to dispossess the petitioner from her land in S.No.491 to an extent of 30 cents and in survey No.492/2 to an extent of 20 cents situated at Ulkombai Tenishpetti Village Omalur Taluk Salem District without following the due process of law.

For Appellant :: Mr.Vijay Anand
for Mr.M.Elango

For Respondents :: Mr.R.Govindasamy,
Spl. Govt. Pleader

JUDGMENT

(Judgment of the Court was pronounced by HULUVADI G.RAMESH, J.)

The Writ Appeal is directed against the order dated 20.02.2018 made in W.P.No.27215/2013 by a learned Single Judge.

2. The Writ Petition has been filed seeking to issue a Writ of Mandamus, directing the respondents therein not to dispossess the writ petitioner from her land in S.No.491 to an extent of 30 cents and in Survey No.492/2 to an extent of 20 cents situated at Ulkombai, Tenishpettai Village, Omalur Taluk, Salem District, without following the due process of law. The said Writ Petition was disposed of by the learned Single Judge by order dated 20.02.2018 by observing that that the petitioner has encroached the water body in S.No.491 and as per the order of the Division Bench of this Court, the respondent authority shall dispossess the petitioner from the said S.No.491. In respect of the land in S.No.492/2, if the petitioner gives a representation, it will be considered by the respondents on merits and in accordance with law. Aggrieved over the same, the writ petitioner is before this Court with this Writ Appeal.

3. The matter is listed today under the caption, ''for admission''. We have heard the learned Counsel on either side and also perused the materials available on record.

4. The case of the writ petitioner/appellant is that the land in S.No.491 and 492/2 were originally classified as Kallankuttai Poramboke and Natham Poramboke, which commonly used for agriculture. So, in the year 1980, the petitioner/appellant occupied the lands and they have been cultivating various crops. While so, on 24.9.2013, the respondents 2 to 4 came to the land and insisted the petitioner to vacate the said land. Per contra, by referring the counter affidavit filed by the second respondent and also the proceedings issued by the Tahsildar, Salem District in Na.Ka.No.1709/2013, dated 6.2.2018, it is submitted by the respondents that the land in S.No.491 is a River Poramboke and the petitioner has no right to occupy the land and in respect of S.No.492/2, if the writ petitioner gives a representation, it will be considered by the authorities in accordance with law. Thereafter, the learned Single Judge has passed an order dated 20.02.2018 in which paragraph 6 is

extracted here under:

''6. In the light of the above submissions made by the learned Additional Government Pleader, this Court is of the opinion that the petitioner has encroached the water body in S.No.491 and as per the order of the Division Bench of this Court, the respondent authority shall dispossess the petitioner from the said S.No.491. In respect of the land in S.No.492/2, if the petitioner gives a representation, it will be considered by the respondents on merits and in accordance with law.''

Aggrieved over the same, though the present appeal came to be filed, on a perusal of the same, we find no ground to interfere with the order of the learned Single Judge.

5. In the result, the Writ Appeal stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

1. The District Collector,
Salem, Salem District.
2. The Tahsildar, Omalur, Omalur Taluk,
Salem District.
3. The Executive Engineer,
Public Works Department-cum-
Water Resource Organisation,
Omalur, Omalur Taluk, Salem District.
4. The Village Administrative Officer,
Tenishpettai Village and Post,
Omalur Taluk, Salem District.

+1cc to M/S.M.Elango, Advocate, S.R.No.43115

W.A.No.899 of 2018

CP(Co)
CS/24/07/18