

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.01.2018

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition No.257 of 2018
and
W.M.P.Nos.317 & 318 of 2018

T.Subramani

... Petitioner

Vs.

1. The District Revenue Officer,
Salem District, at Salem.

2. The Revenue Divisional Officer,
Salem Division, Salem.

3. The Tahsildar,
Valapadi Taluk,
Salem District.

4.K.P.Ganesan

... Respondent

PRAYER: Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari to call for the records pertaining to the orders of the 2nd respondent in Na.Ka.No.773/2017/A3 dated 20.02.2017 and the 3rd respondent in OM.3787/2017/A2 dated 17.11.2017 and quash the same.

For Petitioner : Mr.C.K.M.Appaji

For Respondents : Mr.R.Govindasamy

Special Government Pleader for R1 to R3

O R D E R

The petitioner is aggrieved against the order passed by the 3rd respondent dated 17.11.2017 wherein and whereby, the petitioner was called upon not to indulge in agricultural operation at S.No.22/1A, 1B, 1C, 1D and 1F of Sarcar Nattamangalam Village, pending disposal of the appeal before the first respondent.

2. Heard the learned counsel for the petitioner and the learned Special Government Pleader appearing for the respondents 1 to 3. Since this writ petition is being disposed of without affecting the interest of the 4th respondent, notice to the said

respondent is dispensed with.

3. It seems that the second respondent, Revenue Divisional Officer through proceedings dated 04.02.2015 passed an order cancelling the UDR patta granted in favour of the petitioner as well as the 4th respondent and called upon the petitioner and the 4th respondent to approach the Civil Court and seek for appropriate relief by way of partition. Aggrieved against the said order, the petitioner preferred an appeal before the first respondent. Admittedly, the said appeal is still pending. It is further seen that the second respondent, during the pendency of the appeal before the first respondent, has called upon the 3rd respondent to maintain law and order in the subject matter land. Based on the above said communication, the 3rd respondent passed the impugned order.

4. Learned counsel appearing for the petitioner submitted that when the petitioner is in a possession and enjoyment of the property, he cannot be prevented from cultivating the land and therefore, the impugned order of the 3rd respondent cannot be sustained. He further submitted that the 4th respondent is also cultivating and therefore, the imposition of restriction on the petitioner alone cannot be sustained.

5. This Court, at this stage, is not expressing any view on the merits of the claim made by the petitioner as it is seen that the appeal filed by the petitioner is pending before the first respondent and therefore, it is for the petitioner to work out his remedy before the first respondent in the said appeal without resorting to the filing of the present writ petition, that too, challenging the order of the 3rd respondent, which is nothing but directing the petitioner not to cultivate pending disposal of the appeal before the first respondent.

6. As the appeal was filed before the first respondent on 16.03.2015 and it is stated that the said appeal is still pending, without expressing any view on the merits of the matter as stated supra, this Writ Petition is disposed of only by directing the first respondent to dispose of the appeal on its own merits and pass orders in accordance with law within a period of eight weeks from the date of receipt of a copy of the order after giving due opportunity of hearing both to the petitioner and the 4th respondent. If the petitioner is intending to move any interim application before the first respondent, it is also open to him to do so. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS VIII)

//True copy//

Sub Assistant Registrar

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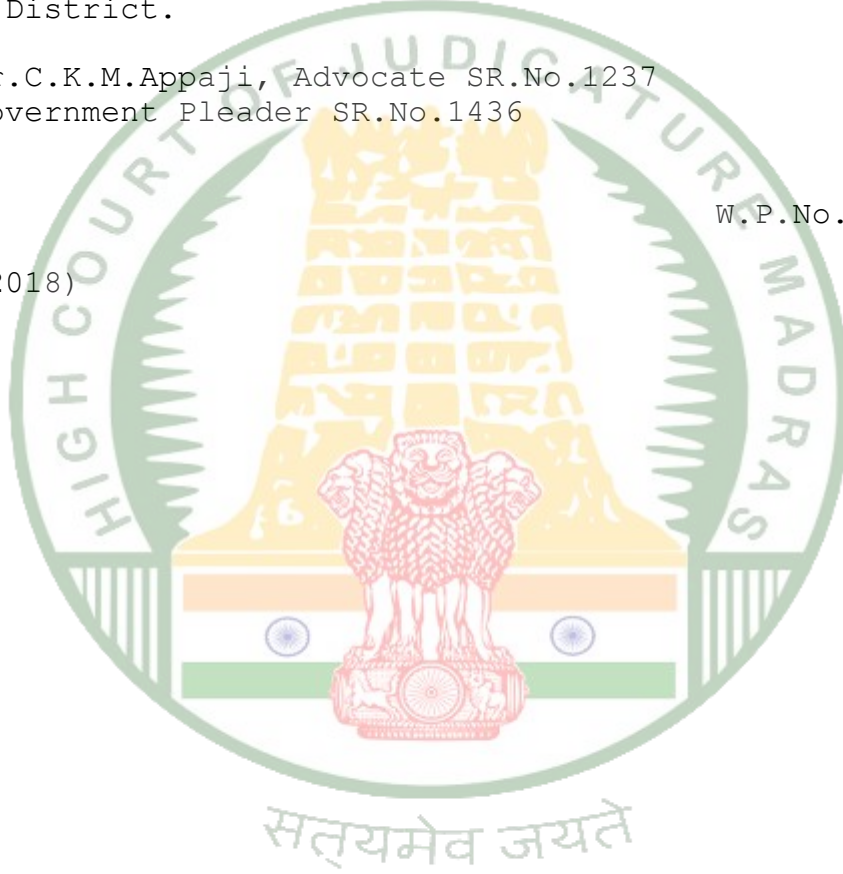
To

1. The District Revenue Officer,
Salem District
at Salem.
2. The Revenue Divisional Officer,
Salem Division,
Salem.
3. The Tahsildar,
Valapadi Taluk,
Salem District.

+1cc to Mr.C.K.M.Appaji, Advocate SR.No.1237
+1cc to Government Pleader SR.No.1436

W.P.No.257 of 2018

SS(CO)
GN(25/01/2018)



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