

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.10.2019

CORAM

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.21260 of 2019

P.Jothi

...Petitioner

Vs

1.The Collector,  
Salem District,  
Salem.

2.The Tahsildar,  
Attur.

3.The Superintendent of Police,  
Salem.

4.The Deputy Superintendent of Police,  
Attur.

5.The Inspector of Police,  
Attur Town,  
Salem District.

6.The President,  
Attur Bar Association,  
Attur Combined Court Complex,  
Narasingapuram Village,  
Attur, Salem District.

(R6 impleaded as per order dated 26/07/2019 by  
NAVJ in WMP.21035/19 in WP.21260/19

...Respondents

Prayer: Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents to provide police protection for the construction of compound wall in S.No.122/2A of Narasingapuram Village, Attur Taluk, Salem District in Patta No.1133 of the petitioner's land.

For Petitioner : Mr.S.Doraisamy  
For Respondents: C.Iyyapparaj  
Additional Public Prosecutor for R1 to R5

Mr.R.Neelagandan for R6

O R D E R

The petitioner herein is the owner of the land in S.No.122/2A, Narasingapuram Village, Attur Taluk and patta No.1133 was also issued in her favour. The said land was transferred in favour of the petitioner through settlement deeds executed by her mother in the following manner:

- 1.D.No.290/2003 dated 05.02.2003 to the extend of 4700 sq.ft
- 2.D.No.3728/2004 dated 25.11.2004 to the extend of 1.53 cents
- 3.D.No.1047/2010 dated 01.03.2010 to the extend of 1000 sq.ft
- 4.D.No.1048/2010 dated 01.03.2010 to the extend of 2250 sq.ft

2. It is the case of the petitioner that when he attempted to construct a compound wall in the subject land, the member of the 6<sup>th</sup> respondent Association had created obstructions, thereby preventing their peaceful possession and enjoyment of the subject lands. In this connection, the petitioner had given a complaint to the respondents 1 to 4 on 10.07.2019 and since there was no action taken on the complaint, the present writ petition has been filed.

3. The Tahsildar of Attur, who has been arrayed as second respondent, has filed a counter affidavit dated 15.10.2019, in which he has stated that the lands in S.No.122/2A, situated in Narasingapuram Revenue Village, Attur Taluk, Salem District is a patta land. The said survey number has been sub-divided as 122/2A through the proceedings of the Tahsildar, Attur in Mu.Mu.No.42/611/94-95 dated 10.06.1994, in favour of the petitioner herein.

4. The said order was taken on appeal before the Revenue Divisional Officer, Attur by one Dhanalakshmi whereby proceedings were set aside on 19.12.1999. Thereafter, the petitioner had filed a revision before the District Revenue Officer, Salem, and the same has been rejected on 19.12.2000. As on date, the land now stands in the names of Dhanalakshmi, Selvaraj, Sekar along with Jothi, who is the petitioner herein.

5. In so far as the objections raised by the 6<sup>th</sup> respondent / Bar Association is concerned, a counter affidavit dated 05.08.2019 has been filed before this Court by the President of Attur Bar Association, Salem. In the said counter affidavit, it has been stated by the 6<sup>th</sup> respondent that they have made a request to the District Collector, Salem through the learned Principal District Judge, Salem to allot some vacant lands for construction of buildings for the quarters of the Hon'ble Judges and Advocate Chambers and such representation is under consideration. It is in the strength of such a request made that the learned counsel for the 6<sup>th</sup> respondent admitted to justify that the petitioner herein has no rights over the property and that there is a discrepancy in the extent of the boundaries. In no part of the counter nor from the submissions made that the 6<sup>th</sup> respondent claims to have any right or title over the subject lands in S.No.122/2A. Mr.R.Neelakandan, the learned Counsel appearing for the 6<sup>th</sup> respondent also submitted that the title which the petitioner claim for S.No.122/2A, has been obtained through fabrication of documents.

6. The learned Additional Public Prosecutor submitted that though there is no dispute with regard to the petitioner's title over the S.No.122/2A, there is an apprehension that the construction might be extended into the S.Nos.122/8, which is a Government poromboke land. To such a submission, the learned counsel for the petitioner submitted that they have no intention to put up any construction in S.No.122/8 and also that they have no right / title over the lands in S.No.122/8.

7. When the title deeds of the lands in S.No.122/2A as well as the Revenue Records stand in the name of the petitioner and others, I am unable to comprehend as to how the Bar Association can create any obstructions or question the title/possession of petitioner herein over the subject land. In order to question the rights and title of the petitioner, the 6<sup>th</sup> respondent should have some vested interest in the subject land and in the absence of the same, they will not have a locus to question the rights of the petitioner. If at all there is any dispute between the petitioner and the co-owners of the subject lands, it requires to be sorted out among themselves and the 6<sup>th</sup> respondent has no legal authority to create any obstructions to the enjoyment by the petitioner over the said subject lands.

8. In the light of the above observations, the petitioner herein is granted liberty to approach the Deputy Superintendent of Police, Attur, who is the 4<sup>th</sup> respondent herein seeking for protection through a representation and on receipt of the same,

the 4<sup>th</sup> respondent herein shall extend the necessary protection to the petitioner for the purpose of putting up a compound wall or any other construction or for peaceful possession or enjoyment of the subject property in S.No.122/2A. The 4<sup>th</sup> respondent will also be at liberty to seek the assistance of a surveyor for the purpose of identifying or ear-marking the petitioner's extent of property in S.No.122/2A or for any other incidental assistance. Such an exercise shall be completed within a period of two weeks from the date of receipt of the petitioner's representation.

9. Accordingly, the writ petition stands allowed. No costs.

-s/d-  
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1.The Collector,  
Salem District, Salem.

2.The Tahsildar,  
Attur.

3.The Superintendent of Police,  
Salem.

4.The Deputy Superintendent of Police,  
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5.The Inspector of Police,  
Attur Town,  
Salem District.

6.The President,  
Attur Bar Association,  
Attur Combined Court Complex,  
Narasingapuram Village, Attur, Salem District.

+1 cc to Mr.S.Doraisamy Advocate sr88903  
+1 cc to Mr.R.Neelakandan Advocate sr89261

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