

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 24-04-2019

CORAM

THE HON'BLE DR.JUSTICE VINEET KOTHARI

AND

THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN

W.P.No.34482 OF 2018

A.Raja @ Rajaram Petitioner

-vs-

- 1.The District Magistrate - cum
District Collector,
Salem,
Salem District.
- 2.Sub-Divisional Executive Magistrate - cum -
Revenue Divisional Officer,
Attur - 636 102, Salem District.
- 3.The Tahsildar,
Attur Taluk Office,
Attur - 636 102,
Salem District.
- 4.The Assistant Executive Engineer,
Tamil Nadu Public Works Department,
Sarabangas Basic Sub-Division,
Attur - 636 102.
- 5.S.Arunachalam
- 6.Attur Thuluvavelalar Sangam and
Attur Town Pongal Festival Kalagam,
represented by its President R.Vasanthan
100/101, Thayummavar st., (Old Charriot St)
Attur-636 102.

7.S.Palanisamy ... Respondents

Petition under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, to remove all

the encroachments made by Soul Respondents 5 to 7 and all other encroachments made on Attur Vasishta River, Attur Taluk, Salem District, based on the Order of District Sub-Divisional Magistrate and Revenue Divisional Officer, the second respondent, through Oo.Mu.3597/2018/A2, dated 31.05.2018.

For Petitioner : Mr.A.Raja @ Rajaram,
Party-in-Person.

For Respondents 1 to 4 : Mr.P.S.Sivashanmugasundaram,
Special Government Pleader.

For Respondents 5 to 7 : Mr.T.Murugamanickam,
Senior Counsel,
for Ms.Zunath Begam.

O R D E R

(By Dr.Vineet Kothari,J.)

Having heard the petitioner-in-person and the learned counsel appearing for the respondents, we are of the opinion that in view of G.O.Ms.No.540, dated 04.12.2014, and the earlier order passed by a co-ordinate Bench of this Court in W.P.No.20913 of 2006, dated 19.09.2008, which Writ Petition was filed by the same petitioner Mr.A.Raja @ Rajaram for similar relief for some other encroachment, we dispose of this Writ Petition with liberty and direction to the petitioner to file a complaint regarding encroachments before first respondent, namely, District Magistrate - cum - District Collector, Salem, who is directed to give an opportunity of hearing to the petitioner as well as the affected parties concerned and pass appropriate orders in the matter. It is only against the final order passed by the District Collector after hearing the parties in the aforesaid manner, that the petitioner can seek for his remedy by way of a Civil Suit in Civil Court.

2. We are of the view that the extra-ordinary writ jurisdiction of this Court under Article 226 of the Constitution of India is not an appropriate remedy in such cases, where disputed questions of facts are involved.

3. Writ Petition is, accordingly, disposed of. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

- 1.The District Magistrate - cum
District Collector,
Salem,
Salem District.
- 2.Sub-Divisional Executive Magistrate - cum -
Revenue Divisional Officer,
Attur - 636 102, Salem District.
- 3.The Tahsildar,
Attur Taluk Office,
Attur - 636 102,
Salem District.
- 4.The Assistant Executive Engineer,
Tamil Nadu Public Works Department,
Sarabangas Basic Sub-Division,
Attur - 636 102.

+2cc to Mr.R.Raja @ Rajaram, (Party in person) Sr.39177
+1cc to Ms.Zeenath Begum, Advocate Sr.39626
+1cc to the Government Pleader Sr.39870

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srg 17/06/2019