

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.02.2020

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. Nos. 5222 and 8637 of 2019
and
W.M.P. Nos. 5933 and 9157 of 2019

W.P. No. 5222 of 2019:-

1. Palanivel
2. Thangamal

... Petitioners

-vs-

1. The District Collector,
Salem.
2. The Revenue Divisional Officer,
Salem.
3. The Tahsildar,
Salem West.
4. The Revenue Inspector,
Sooramangalam,
Salem.
5. The Village Administrative Officer,
Selathampatty,
Salem - 5.
6. The Inspector of Police,
Sooramangalam Police Station,
Salem - 5.
7. Maheswari
8. Nallammal
9. Kandasamy
10. Vadivel

11. Marimuthu

12. Elambagounder

13. Chinnapaiyan

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the First to Sixth Respondents from abusing the process of law to lay any road over the patta lands belonging to the Petitioners in S. No. 24/2 of Selathampatty Village, Sooramangalam Post, Salem except by due process of law if it is permissible.

For Petitioners: Mr. D. Shivakumaran

For Respondents: Mr. M. Digvijaya Pandian,
Additional Government Pleader
(for R1 to R6)

Mr. R. Marudhachalamoorthy
(for R7 to R11)

No appearance (for R12 and R13)

W.P. No. 8637 of 2019:-

Palanivel

... Petitioner

-vs-

1. The Revenue Divisional Officer,
Salem.

2. Nallammal

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the entire records relating to the proceedings in Na. Ka. No. 1202/2015/Aa2 dated 28.02.2019 on the file of the First Respondent herein, quash the same and further direct the Respondents, not to interfere with the patta land in S. No. 24/2 of Selathampatty Village, Sooramangalam Post, Salem Taluk and District during the pendency of the Civil Suits before the competent Civil Court.

For Petitioner : Mr. D. Shivakumaran

For Respondents: Mr. M. Digvijaya Pandian,
Additional Government Pleader
(for R1)

Mr. R. Marudhachalamoorthy
(for R2)

COMMON ORDER

Heard Mr. D. Shivakumaran, Learned Counsel for the Petitioners and Mr. M. Digvijaya Pandian, Learned Additional Government Pleader appearing for the First to Sixth Respondents in W.P. No. 5222 of 2019 and First Respondent in W.P. No.8637 of 2019 and Mr. R. Marudhachalamoorthy, Learned Counsel appearing for the Seventh to Eleventh Respondents in W.P. No. 5222 of 2019 and Second Respondent in W.P. No. 8637 of 2019, and perused the materials placed on record, apart from the pleadings of the parties. Since both Writ Petitions relate to same property and filed by the same Petitioners, they are taken up for disposal together.

2. The chronological sequence of events leading to these filing of this Writ Petitions are as follows:-

- (i) The First and Second Petitioners in W.P. No. 5222 of 2019 who are the husband and wife owning the lands measuring an extent of 64 cents in S. No. 24/2 in Selathampatty Village, Sooramangalam Post, Salem, had instituted a suit in O.S. 919 of 2013 on the file of the Principal District Munsif Court, Salem for declaration of their title to the property and for consequential permanent injunction restraining the Defendants therein from interfering with the peaceful possession and enjoyment of that property and another suit in O.S. No. 358 of 2015 on the file of the Principal District Munsif Court, Salem for permanent injunction against the Revenue Authorities from interfering with the peaceful possession and enjoyment of the property.
- (ii) The Eighth, Twelfth and Thirteenth Respondents in W.P. No. 5222 of 2019 have filed civil suits in O.S. Nos. 945 and 1075 of 2013 on the file of the District Munsif Court, Salem, against the Petitioners for permanent injunction restraining the Petitioners from disturbing their rights

- on usage of pathway to their said property.
- (iii) The Principal District Munsif Court, Salem by order dated 19.06.2018 dismissed the application in I.A. No. 1524 of 2013 in O.S. No. 919 of 2013 filed by the Petitioners and by another order dated 19.06.2018 in I.A. No. 1819 of 2013 in O.S. No. 1075 of 2013 granted an order of interim injunction restraining the Petitioner from disturbing the usage of pathway.
 - (iv) At that stage, the Petitioners have filed W.P. No. 5222 of 2019 for a direction to the First to Sixth Respondents from abusing the process of law to lay any road over the property except by due process of law, if it is permissible.
 - (v) In the meanwhile, the Revenue Divisional Officer, Salem by order Na. Ka. 1202/2015/Aa2 dated 28.02.2019 prevented the Petitioners from obstructing the use of the pathway, which is challenged by the Petitioner in W.P. No. 8637 of 2019 in this Court

3. Having regard to the aforesaid interim orders passed by the Civil Court against the Petitioner, which are in force and against which no appeal has been preferred, the Revenue Divisional Officer cannot be faulted in passing the order which is impugned in W.P. No.8637 of 2019, and there does not appear to be any infirmity in his decision making process requiring interference by this Court in the exercise of its discretionary powers under Article 226 of the Constitution of India at this stage.

4. At the same time it is made clear that while deciding the pending four suits, the Civil Court shall not be inhibited or influenced by the earlier interim orders passed in those suits, or the order passed by the Revenue Divisional Officer, which is impugned in W.P.No. 8637 of 2019, and the matter shall be adjudicated on the basis of the pleadings and evidence adduced by the parties on merits and in accordance with law. In this regard, Learned Counsel for the parties agree that they would file a memo before the Civil Court for joint trial of all the aforesaid four suits. The Civil Court shall expedite the disposal of the matters by ensuring that the pleadings are completed within a specific time frame and there is atleast one effective hearing every week showing progress of the cases on the commencement of the trial in the matter. Depending upon the outcome of the ultimate decision in the aforesaid four suits, the question of laying down any road over the property as sought in W.P. No. 5222 of 2019 would be decided by the Revenue Authorities.

5. Accordingly, these Writ Petitions are disposed on the aforesaid terms. Consequently, the connected Miscellaneous Petitions are closed. No costs.

Sd/-
Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

vjt/sj

To

1. The District Collector,
Salem.
2. The Revenue Divisional Officer,
Salem.
3. The Tahsildar,
Salem West.
4. The Revenue Inspector,
Sooramangalam,
Salem.
5. The Village Administrative Officer,
Selathampatty,
Salem - 5.
6. The Inspector of Police,
Sooramangalam Police Station,
Salem - 5.

Copy to
The Judge,
Principal District Munsif Court,
Salem.

+1cc to Mr.D.Shivakumar, Advocate SR.14177
+1cc to Mr.R.Marudhachalamurthy, Advocate SR.14812
+1cc to the Government Pleader SR.14691

W.P. Nos. 5222 and 8637 of 2019

RSI (CO)
CB(15/06/2020)