

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.01.2020

CORAM

THE HONOURABLE Mr. JUSTICE ABDUL QUDDHOSE

W.P.No.28010 of 2013
and
W.M.P.Nos.1 and 2 of 2013

1. S.Mahalingam
2. A.Kannan
3. S.Dhamodharan
4. A.Bhasakaran
5. J.Vijayan
... Petitioner

Vs.

1.The District Collector,
Vellore District.
2. The Superintendent Engineer,
Highways Department,
Vellore District.
3. The Executive Officer,
Odugattur Town Panchayat,
Vellore District.
.... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus to restrain the respondents from in any manner interfering with or demolishing the shop's constructed by the petitioners in Odugathur in S.No.180/1A/1A.

For Petitioners :Mr.P.Ganapathy

For Respondents :Mr.R.S.Selvam - For R1 & R2
Government Advocate

O R D E R

This writ petition has been filed for a Mandamus to restrain the respondents from in any manner interfering with or demolishing their respective shop's constructed by the petitioners at Odugattur Village in S.No.180/1A/1A.

2. It is the case of all the petitioners that each of them are owners of the respective shops at Odugattur Village comprised in S.No.180/1A/1A. It their case that illegally the respondents are attempting to demolish the petitioners' shops. Due to the said apprehension, this Writ Petition has been filed.

3. A counter affidavit has been filed by the respondents, wherein it has been stated that the petitioners 2 & 4 are encroachers and no patta has been issued in their favour. In the same counter affidavit, the respondents have stated that the first petitioner viz., S.Mahalingam, the third petitioner viz., S.Damodharan and the fifth respondent viz., J.Vijayan were alone granted pattas and they alone have not encroached the highway land as per the re-survey conducted by Mr.M.Mohan, Surveyor, on 19.12.2013, as represented by the Tahsildar, Vellore District vide letter No.C6/6931/2013, dated 20.12.2013.

4. Heard Mr.P.Ganapathy, learned counsel for the petitioner as well as Mr.R.S.Selvam, learned Government Advocate for the respondents 1 and 2.

5. Admittedly, the second petitioner viz., A.Kannan and the fourth petitioner viz., A.Bhaskaran are encroachers. In the typed set of papers filed along with the writ petition, the alleged pattas issued in their favour have not been produced. The second respondent in his counter affidavit has categorically pleaded that the second and fourth petitioners are encroachers and no pattas have been issued in their favour. In view of the same, the petitioners 2 and 4 cannot seek any protection with regard to the demolition of their shops at Odugattur Village, Vellore District. However, in the counter affidavit filed by the second respondent, it has been categorically stated that the petitioners 1,3 and 5 are not encroachers as they have been granted pattas in respect of their respective shops. Hence, their shops alone can be protected by orders of this Court.

6. For the foregoing reasons, the writ petition is partly allowed by directing the respondents to take action against the petitioners 2 and 4 for their encroachment of the Government lands at Odugattur Village, Vellore District, in accordance with law. However, as regards petitioners 1,2 and 5 are concerned, who are not encroachers and who have been issued

with valid pattas, the respondents are restrained from demolishing their shops. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

To

1.The District Collector,
Vellore District.

2. The Superintendent Engineer,
Highways Department,
Vellore District.

3. The Executive Officer,
Odugattur Town Panchayat,
Vellore District.

+1cc to the Government Pleader Sr.7700

W.P.No.28010 of 2013
and

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srg 05/03/2020

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