

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 05.10.2020

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MRS. JUSTICE R.HEMALATHA

WP.No.12066/2020 & WMP.No.14794/2020

D.Ramakrishnan

..Petitioner

Versus

1. The District Collector,
Salem District, Salem.
2. The Superintendent of Police
Tamil Nadu Police Housing Corporation Ltd
North Circle No.187, Inspector's Quarters
PGR Line, Behind CPO Building,
Linemedu, Salem 636 006.
3. The Revenue Divisional Officer
Collector Office Compound, Salem.
4. The Tahsildar
Collector Office Compound, Salem.
5. The Block Development Officer
Panamarathupatti Panchayat Union
Panamarathupatti, Salem Taluk & District.
6. The Inspector of Police
Panamarathupatti Police Station
Salem District.

..Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus forbearing the respondents herein, from illegally removal of the petitioner herein from the subject matter of the property in survey No.39/2 situated at Panamarathupatti Village, Salem Taluk and District, in any way disturbing petitioner peaceful possession and enjoyment of the same without initiating the proceedings under the Tamilnadu Land Encroachment Act, 1905 and the incidental proceedings made thereon based on the legal notice cum representation dated 01.06.2020 forthwith.

For Petitioner : Mr.C.Prabhakaran
For Respondents: Mr.V.Jayaprakash Narayanan

ORDER

- (1) By consent, the writ petition is taken up for final disposal.
- (2) The petitioner is a resident of Erikadu, Panamarathupatti Village, Salem Taluk and District and according to him, the landed property comprised in S.No.39/2 situate at Panamarathupatti Village, Salem Taluk and District, admeasuring to an extent of 23 cents, is located near his patta lands, the details of which have not been given. But, however, Mr.V.Jayaprakash Narayan, learned Government Pleader appearing on behalf of the official respondents would submit that the petitioner is also the owner of the patta lands situate in S.Nos.37/4, 38/6B and 39/1 admeasuring to an extent of 1.55 acres and it is taken on file and record.
- (3) It is the specific case of the petitioner that the said land was occupied by his father, viz., Thiru.Ramasamy Padayachi, right from the year 1953 and by way of succession, the petitioner continue to remain in possession and enjoyment of the same.
- (4) The learned counsel for the petitioner would submit that the official respondents has identified the land in Panamarathupatti Village in S.No.46/6 admeasuring to an extent of 0.40.0 hectares for the purpose of construction of Panamarathupatti Police Station and however, unauthorisedly erected the bore well upon the land in possession of the petitioner in S.No.39/2 of the said Village. The petitioner, apprehending dispossession, along with his father, filed a suit in OS.No.204 of 2017 on the file of the District Munsif Court, Salem, against the official respondents praying for permanent injunction, restraining the defendants therein, their men, agents or subordinates from in any manner evicting the plaintiffs from the suit property except under due process of law and the suit has been entertained and it is pending without any interim orders. The petitioner also filed WP.No.1894 of 2018 against the Superintendent of Police as well as the Sub Inspector of Police, Panamarathupatti Police Station, praying for issuance of a writ of mandamus, forbearing the respondents from illegally removing the petitioner from the land in S.No.39/2 situate at Panamarathupatti Village and also in any manner, disturbing the peaceful possession and enjoyment without recourse to due process of law and the writ petition was entertained and interim orders were granted on 31.01.2018 in WMP.No.2380 of 2018.
- (5) The respondents have filed the counter affidavit and took a stand that the District Collector of Salem, vide proceedings dated 06.06.2017 in Na.Ka.3956/2017/K4, has transferred the land admeasuring to an extent of 0.1060.0 sq.m out of the land

admeasuring to an extent of 0.3690.0 sq.m., for the purpose of construction of Panamarathupatti Police Station and as such, the claim made by the petitioner is wholly unsustainable. The learned Single Judge of this Court has taken note of the stand of the official respondents and dismissed the said writ petition vide order dated 22.10.2018 as devoid of merits and admittedly, no further challenge has been made to the said order and it has become final.

- (6) The learned counsel for the petitioner reiterated the very same stand taken in the suit as well as in the earlier round of litigation in WP.No.1894 of 2018.
- (7) In the considered opinion of the Court, admittedly, the father of the petitioner is said to be an encroacher and by way of succession, the petitioner reiterated his stand as an encroacher of the said land. A perusal of the counter affidavit filed in WP.No.1894 of 2018 by the 2nd respondent therein would disclose that a portion of the land in S.No.39/4 which is classified as 'Kallankuthu Poramboke', situate at Panamarathupatti Firka, has been transferred for the construction of Panamarathupatti Police Station by the 1st respondent herein, vide proceedings dated 06.06.2017 in Na.Ka.3956/2017/K4.
- (8) Unless and until a successful challenge is made to the said proceedings, it is not open to the petitioner to take a contra stand and that apart, in the suit filed by him, in OS.No.204 of 2017, he is not having the benefit of interim orders. Moreover, WP.No.1894 of 2018 filed by him for almost similar relief, has also come to be dismissed as devoid of merits on 22.10.2018.
- (9) In the light of the above facts and circumstances and the reasons assigned above, this Court is of the considered view that there is no merit in this writ petition and the same deserves dismissal.
- (10) Accordingly, the writ petition stands dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The District Collector,
Salem District, Salem.

2. The Superintendent of Police
Tamil Nadu Police Housing Corporation Ltd
North Circle No.187, Inspector's Quarters
PGR Line, Behind CPO Building,
Linemedu, Salem 636 006.
3. The Revenue Divisional Officer
Collector Office Compound
Salem.
4. The Tahsildar
Collector Office Compound,
Salem.
5. The Block Development Officer
Panamarathupatti Panchayat Union
Panamarathupatti, Salem Taluk & District.
6. The Inspector of Police
Panamarathupatti Police Station
Salem District.

+1cc to Mr.V.Jayaprakash Narayanan, GP, Sr.No.31089
+1cc to the Government Pleader, Sr.No.32670
+1cc to Mr.Prabhakaran, Advocate, Sr.No.32597

WP.No.12066/2020

ajs (co)
rr ii (04/11/2020)

सत्यमेव जयते

WEB COPY