

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 29.10.2020

CORAM

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

WP.No.15419/2020

- 1.Mathu
- 2.Muthusamy
- 3.Theerthakiri

..Petitioners

Versus

1. The District Collector
District Collectorate
Salem District.
2. The Tahsildar
Pethanaickanpalayam Taluk
Salem District.
3. The Block Development Officer
Pethanaickanpalayam Union and Taluk
Salem District.
4. The Revenue Inspector
Kalvarayan Malai
Pethanaickanpalayam Taluk
Salem District.

..Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus directing the 1st respondent to consider and dispose the petitioner appeal dated 16.03.2020 pending before the 1st respondent within a time frame fixed by this Court.

For Petitioners : Mr.V.Gunasekar

For Respondents : Mr.M.Elumalai, AGP

ORDER

[Order of the Court was made by M.SATHYANARAYANAN,J.,]

- (1)By consent, the writ petition is taken up for final disposal and is disposed of by this order.
- (2)Mr.M.Elumalai, learned Additional Government Pleader accepts notice on behalf of the respondents

- (3) The petitioners claim to be the absolute owners of the agricultural lands comprised in S.Nos.1061, 1062 and 1063 situate in Karumandurai Village, Pethanaickenpalayam Taluk, Salem District and according to the petitioner, patta has also been issued in respect of the said lands. The petitioners would further claim that adjacent to the above said Survey Numbers, there exist 'poramboke oni land' in S.Nos.1061/1, 1062/1, 1063/1 and 1064/10 and the petitioner and other village people are using it as a pathway to have access to their agricultural lands and also for transportation of the agricultural products. The grievance expressed by the petitioners is that, all of a sudden, to the shock and surprise of the petitioners, the Revenue Inspector of Kalvarayan Malai, has issued a notice under Section 7 of the Tamil Nadu Land Encroachment Act, 1905, and aggrieved by the same, the petitioners have also filed an appeal dated 16.03.2020 under Section 10 of the said Act and despite the pendency of the same, further steps are being taken to dispossess the petitioners and hence, they have come forward to file this writ petition.
- (4) Heard the submissions of the learned counsel for the petitioners and Mr.M.Elumalai, learned Additional Government Pleader appearing on behalf of the respondents.
- (5) A perusal of the affidavit filed in support of this writ petition, vis-a-viz., the Appeal Memorandum dated 16.03.2020 said to have been submitted by the petitioners to the 1st respondent and others would prima facie disclose that the petitioners had taken a contra stand in respect of the possession of the land in S.No.1063/1 of Karumandurai Village. As per the averments made in paragraphs No.2 and 3 of the affidavit, the land in the said Survey Number is also being used as a 'cart track' to transport agricultural operation.
- (6) Be that as it may, the Office of the 1st respondent, vide communication dated 20.05.2020 in O.Mu.No.10051/2020/K4, has directed the Revenue Divisional Officer, Athur, to look into the issue and respond to the same.
- (7) This Court, taking into consideration the above facts and circumstances and without going into the merits of the claim projected by the petitioners, either in their representation or in this writ petition, directs the Revenue Divisional Officer, Athur, to act on the communication of the 1st respondent dated 20.05.2020 in O.Mu.No.10051/2020/K4 and pass appropriate orders on merits and in accordance with law within a period of six weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner and till such time, the 4th respondent shall defer further proceedings in terms of the impugned Notice dated Nil.07.2019 issued under Section 7 of the Tamil Nadu Land Encroachment Act, 1905. It is also made clear that the petitioners, till the consideration and disposal of their grievance by the Revenue Divisional

Officer, Athur, shall not create any third party rights in respect of the lands in question.
(8)The writ petition stands disposed of accordingly. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The District Collector
District Collectorate
Salem District.
2. The Tahsildar
Pethanaickanpalayam Taluk
Salem District.
3. The Block Development Officer
Pethanaickanpalayam Union and Taluk
Salem District.
4. The Revenue Inspector
Kalvarayan Malai
Pethanaickanpalayam Taluk
Salem District.
5. The Revenue Divisional Officer,
Athur, Salem District.

+1cc to Mr.V.Gunasekar, Advocate, S.R.No.34963

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SS(CO)
RV(30/11/2020)

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