

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.03.2021

CORAM: JUSTICE N.SESHASAYEE

WP.No.5802 of 2021

Marimuthu

...Petitioner

-Vs-

1.The District Collector,
Collectorate, Salem - 636001,
Salem District.

2.The Tahsildar,
Taluk Office,
Salem West Taluk,
Salem District.

3.R.Sadhasivam ...Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 2nd respondent herein remove the 3rd respondent name in patta number bearing No.781 belongs to petitioner property, bearing survey 47/3A totally admeasure 1.24 acres of Agriculture land which is situated in Thalaivasal Village, Attur Taluk, Salem District belongs to the petitioner.

For Petitioner : Mr.A.Rajakumar

For R1 & R2 : Mrs.R.Janaki
Additional Government Pleader

सत्यमेव जयते
ORDER

The petitioner seeks a direction to the second respondent to remove the name of the third respondent from patta No.781 as concerning the property in Sy.No.47/3A measuring 1.24 acres. As concerning this property, the petitioner has filed a civil Suit in O.S.No.258 of 2018 for bare injunction against the third respondent.

2.A reading of the written statement of the third respondent herein in O.S.No.258 of 2018 would indicate that the property of the petitioner was given as collateral security for a loan obtained by the petitioner's father Kandasamy from M/s.Karur Vysya Bank. Since the loan was not repaid, the

concerned Bank invoked the provisions of SARFAESI Act and brought the property to auction sale, in which the third respondent was the successful bidder. It is pursuant to the sale certificate issued, the patta has been transferred.

3. Heard, Mrs.R.Janaki, learned Additional Government Pleader for the respondents 1 and 2.

4. The petitioner has short circuited the entire issue. Here is a property which has been sold in an auction under the SARFAESI Act and the petitioner cannot go hypertechnical in seeking cancellation of patta issued in the name of the third respondent. He first has to remove the cloud on his purported claim of title over the property before seeking one.

5. At this juncture, the learned counsel for the petitioner submitted that he would withdraw the petition.

6. In view of the above, the Writ Petition is dismissed as withdrawn. However, the petitioner is not granted liberty to file a fresh petition on the same cause of action. No costs.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

Tsg
To

1. The District Collector,
Collectorate, Salem - 636001,
Salem District.

2. The Tahsildar,
Taluk Office,
Salem West Taluk, Salem District.

Copy to

R.Sadhasivam,
D.No.32A, Paithur Road,
Attur 636 141, Salem District.

+lcc to the Government Pleader Sr.15856

W.P.No.5802 of 2021

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srg 31/03/2021