



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 16.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
AND
THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

W.P. No.14133 of 2021

Mr.E.N.Mohankumar

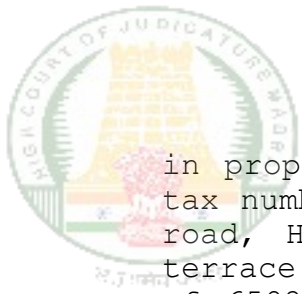
..Petitioner

Versus

1. The District Collector,
Salem District,
Salem.
2. The Commissioner of Corporation,
Salem Corporation,
Salem.
3. The Commissioner of Police,
Salem.
4. The Assistant Commissioner,
Salem Corporation,
Ammamet Zonal Office,
Salem District.
5. The Deputy Director of Town and Country Planning,
Salem District,
Salem.
6. The Tahsildar,
Salem Taluk, Salem.
7. Sivanadham

..Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking to issue a Writ of Mandamus, directing the respondents 1, 2, 4 and 5 to take appropriate action for demolition of unauthorized construction made by the 7th respondent in the property situated at Town Survey No.62, Block 9, the present resurvey number in TS 60, AE-Block situated at New Door No.442 and 444 corresponding to old Door No.306/966



in property tax assessment number - 049/033/01811, old property tax number - 3114692 in Chinnakadai theru, 5th ward, Bazaar main road, H-Division, Salem Town and Taluk attached with RCC roof terrace building with appurtenance thereon measuring an extent of 6582 square feet (611.5 square metre) based on petitioner's representation dated 08.03.2021.

For petitioner : Mrs.Hemasampath,
for Mr.C.Prabakaran

For respondents

for R1, 3, 5 & 6 : Mr.T.N.C.Kaushik

for R2 & 4 : Mr.S.Satheesh

for R7 : Mr.A.R.L.Sundaresan,
for Mr.I.Arokiasamy

ORDER

(The Order of the Court was made by K.KALYANASUNDARAM, J)

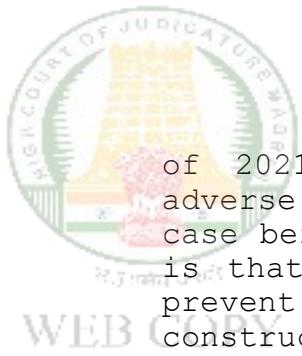
The Writ Petition is heard through video conferencing.

2. Heard Mrs.Hemasampath, learned Senior Counsel appearing for Mr.C.Prabakaran, learned counsel for the petitioner, Mr.T.N.C.Kaushik, learned Government Counsel appearing for the respondents 1, 3, 5 & 6, Mr.S.Satheesh, learned Government Counsel appearing for the respondents 2 and 4 and Mr.A.R.L.Sundaresan, learned Senior Counsel appearing for Mr.I.Arokiasamy, learned counsel for the seventh respondent.

3. The petitioner has come forward with this Writ Petition seeking direction to the respondents 1, 2, 4 and 5 to take appropriate action for demolition of the unauthorized construction made by the seventh respondent on Town Survey No.62, Block 9, resurvey number in TS 60, AE-Block situated at New Door Nos.442 and 444 in Chinnakadai theru, 5th ward, Bazaar main road, H-Division, Salem.

4. The petitioner claims to be the owner of the property referred above and according to him, the seventh respondent is a tenant. It is alleged that the seventh respondent demolished the old structure and without planning permission, he is putting up new construction.

5. The learned Senior Counsel appearing for the petitioner would state that the seventh respondent has already filed a suit before the First Additional District Judge, Salem in O.S.No.175



of 2021, seeking declaration of title on the basis of his adverse possession and the petitioner is ready to defend the case before the Civil Court, but the grievance of the petitioner is that the official respondents have not taken any action to prevent the seventh respondent from putting up unauthorised construction in the place in dispute. Hence, the second and fourth respondent shall be directed to demolish the unauthorised superstructure put up by the seventh respondent.

6. The learned Senior Counsel appearing for the seventh respondent would state that the seventh respondent has been in possession of the property for more than the statutory period, hence, he has laid a suit claiming title over the property. It is also stated that the seventh respondent has only made some alterations in the building and no additional or new construction is put up by him.

7. The learned Government Standing Counsel appearing for the respondents 2 and 4 would state that though the respondents received representation dated 08.03.2021, but it is not clear and there is an ambiguity. If the petitioner is directed to give fresh representation to the concerned authorities, they are ready to take action in accordance with law.

8. In the light of the submissions of the learned counsels, this Court, without expressing any opinion on the title dispute between the petitioner and the seventh respondent, directs the petitioner to give fresh representation to the respondents 2 and 4, by enclosing a copy of this order within a period of two weeks. On such receipt, the respondents 2 and 4 shall consider the same and take action in accordance with law, after affording ample opportunity to the necessary parties. Such exercise shall be completed within a period of eight weeks therefrom.

9. With the above observations and directions, the Writ Petition is disposed of. No costs.

Sd/-
Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

pvs



To

1. The District Collector,
Salem District, Salem.
2. The Commissioner of Corporation,
Salem Corporation, Salem.
3. The Commissioner of Police,
Salem.
4. The Assistant Commissioner,
Salem Corporation,
Ammamet Zonal Office,
Salem District.
5. The Deputy Director of Town and Country Planning,
Salem District, Salem.
6. The Tahsildar,
Salem Taluk, Salem.

+1cc to Mr.C.Prabakaran, Advocate, S.R.No.47268

+1cc to the Government Pleader, S.R.No.47844

W.P. No.14133 of 2021

PCH(CO)
RGA(20/10/2021)