

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 18.02.2021

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN

W.P.No.26046 of 2019

Seerangan

..Petitioner

Versus

- 1.The District Collector,
Salem District.
- 2.Deputy Superintendent of Police,
Omalar Division, Salem District.
- 3.Selvaraj
- 4.The Tahsildar,
Mettur Taluk, Salem District.
- 5.The Executive Officer / Special Officer,
Jalakandapuram Town Panchayat,
Mettur Taluk, Salem District.

(R4 and R5 impleaded vide order dated 29.01.2021
made in WMP.No.28239/2019 in W.P. 26046/2019 by MSNJ & AANJ)

..Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus Directing to the official respondents to take appropriate action on petitioners representation dated 12.03.2019 and remove the encroachments made by the 3rd respondent in Government Poromboke land in Survey No. 228 measuring 97 cents, Adavathur Village, Jalakandapuram, Town Panchayat, Mettur Taluk, Salem District Within The time fixed by this Court.

For Petitioner :	Mr.V.S.Mannarsamy
For RR1 & 2 :	Mr.E.Manoharan
	Special Government Pleader
For RR3 :	Mr.K.Selvaraj
For RR4 & 5 :	Mr.K.Sathiya Murthi

ORDER

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

The petitioner would state that the lands comprised in S.F.Nos.227 to 230 at Avadathur Village, Nangavalli Panchayat Union, Mettur Taluk, Salem District is classified as 'Government Poromboke' land for the past several years. The family of the petitioner was running a small food shop in S.F.No.228 of Avadathur Village, for which, the 3rd respondent had collected advance as well as rent.

2. The petitioner would further state that during November 2018, the 3rd respondent took forceful possession of the property without recourse to due process of law and a complaint was also given.

3. The learned counsel appearing for the petitioner would submit that later, the petitioner became aware of the fact that the 3rd respondent has no right whatsoever upon the land in S.F.No.228 and as per 'A' Register, it is 'local bund road' and since the 3rd respondent is indulged in the said illegal acts and also made the petitioner to believe as if he is the owner of the land and collected rents, prays for appropriate action for removal of encroachment on the part of the 3rd respondent.

4. The 3rd respondent has filed the counter affidavit and took a stand that his wife namely, S.Geetha had purchased the land admeasuring an extent of 2040 sq.ft in S.F.No.229/2, later on subdivided as 229/2A6, with superstructures thereon at Palanivel Chetty Street under a Registered Sale Deed dated 10.12.1997, bearing Doc.No.213/1998 and the patta has also been issued bearing No.1634 in the joint names of the 3rd respondent and his wife and it is subjected to statutory levies. It specifically stated by the 3rd respondent that he did not encroach upon any portion of the land in S.F.No.228 and the said land has been subdivided as S.F.No.228/1 with an extent of 0.36.0 ares, classified as 'National Highways land' and S.F.No.228/2 admeasuring an extent of 0.03.5 ares is classified as land belongs to Arulmigu Varuthira Vanniar Maharaja Swamy Koil, as per the Revenue Records and once again reiterated that he is not in possession of the land in S.F.No.228/1 and 228/2.

5. The learned counsel would further state that the petitioner became tenant in respect of portion of the land on lease, vide Lease Agreement dated 03.11.2010 for a daily rent of Rs.200/- and since he failed to pay the same, action was taken to recover the arrears and in order to avoid the same, he filed a frivolous litigation and prays for dismissal of the same with exemplary costs.

6. Mr.K.Sathiya Murthy, learned counsel appearing for the respondents 4 and 5 would submit that the petitioner is not in possession of land in S.F.Nos.228/1 and 228/2 and the lands in the said survey numbers are free of encroachment.

7. This Court has carefully considered the rival submissions and also perused the materials placed before it.

8. In the light of the stand taken by the respondents 3 and 4, this Court is of the considered view that the present Writ Petition filed by the petitioner alleging encroachment on the part of the 3rd respondent in S.F.No.228/1 and 2 of Avadathur Village, Nangavalli Panchayat Union, Mettur Taluk, Salem District, is highly misconceived and it is not supported by any tenable materials.

9. In the result, the Writ Petition is dismissed. No costs.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

- 1.The District Collector,
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- 2.Deputy Superintendent of Police,
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- 3.The Tahsildar,
Mettur Taluk, Salem District.
- 4.The Executive Officer / Special Officer,
Jalakandapuram Town Panchayat,
Mettur Taluk, Salem District.

+1 CC to The Government Pleader sr 9917
+1 CC to Mr.K. Selvaraj, Advocate sr 9985.
+1 CC to Mr.G. Rajesh, Advocate sr 10093.

W.P.No.26046 of 2019

AAB(CO)
SP(16/03/2021)