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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.02.2022

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.13241 of 2008

Chinna Pappa

... Petitioner

Vs.

1.The State of Tamil Nadu
rep. by the Secretary to Government,
Revenue Department,
Fort St.George,
Chennai - 600 009.

2.The District Collector,
Salem District at Salem.

3.The Revenue Divisional Officer,
Sankari,
Salem District.

4.The Tahsildar,
Edappadi,
Salem District.

5.P.Subramani

6.Ramesh

7.Manimegalai

8.Sarasu

9.Chandra

10.Negesh

11.Arjunan

12.Vijayan

13.The Commissioner,
Edapadi Municipality,
Edapadi,
Salem District.

(R13 impleaded as per the order
of this Court dated 17.02.2022
made in W.M.P.No.21848 of 2008
in W.P.No.13241 of 2008)

... Respondents



Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the first respondent to take appropriate action against the respondents 2 to 4 and their Subordinates for the illegal eviction conducted by them on 20.03.2008 in respect of the petitioner's land and house of 0.0198.0 square metre in Survey No.29, Old No.482/9 part as per Resurvey Ward-F, Block 14 of Edappadi Town, Salem District, with further direction to the respondents 2 to 4 to restore the possession of the above property to the petitioner and also direct them to pay adequate compensation to the tune of Rs.5 Lakhs jointly by the respondents 2 to 4 to the petitioner.

For Petitioner : Mr.P.Murugan

For Respondents: Mr.G.Nanmaran for R1 to R4
Special Government Pleader
Mr.R.Marudhachalamurthy
for R5 to R12
Mr.R.S.Selvam for R13

O R D E R

The petitioner has filed this writ petition seeking issuance of Writ of Mandamus directing the first respondent to take appropriate action against the respondents 2 to 4 and their subordinates for the illegal eviction conducted by them on 20.03.2008 in respect of the petitioner's land and house of 0.0198.0 square metre in Survey No.29, Old No.482/9 part as per Resurvey Ward-F, Block 14 of Edappadi Town, Salem District, with further direction to the respondents 2 to 4 to restore the possession of the above property to the petitioner and also direct them to pay adequate compensation to the tune of Rs.5 Lakhs jointly by the respondents 2 to 4 to the petitioner.

2.The case of the petitioner is that the disputed property is classified as Grama Natham and the petitioner's family is living there for several years. According to the petitioner, at the instigation of the private respondents, respondents 2 to 4 are trying to dispossess the petitioner from the property and also evicted the petitioner's family from the premises. Aggrieved by the same, the petitioner has filed this writ petition.

3.The learned counsel appearing for the petitioner submitted that this Court may issue direction to the first respondent to



take appropriate action against the respondents 2 to 4 and their subordinates for the illegal eviction conducted by them on 20.03.2008 in respect of the petitioner's land within a reasonable time frame.

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4.The learned counsel appearing for the private respondents submitted that for the very same issue, the petitioner already filed suit before the competent civil Forum and the said suit was also dismissed. The learned counsel further submitted that the issue involved in the present writ petition is disputed question of fact which cannot be decided under Article 226 of the Constitution of India.

5.The learned Special Government Pleader appearing for the respondents 1 to 4 submitted that already a peace committee meeting was held after issuance of notice, in which, the petitioner also participated and and agreed to remove the encroachments.

6.Considering the fact that for the very same issue, already the petitioner filed suit before the competent civil Forum and the said suit was dismissed and the fact that already a peace committee meeting was held after issuance of notice, in which, the petitioner also participated and and agreed to remove the encroachments, no mandamus can be issued to the first respondent. Further, the issue involved in the present writ petition is disputed question of fact which cannot be decided under Article 226 of the Constitution of India.

7.In view of the above, this writ petition is dismissed. However, liberty is granted to the petitioner to work out the remedy in the manner known to law. No costs.

SD/-
ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR

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To

1.The Secretary to Government,
State of Tamil Nadu
Revenue Department,
Fort St.George,
Chennai - 600 009.



2.The District Collector,
Salem District at Salem.

3.The Revenue Divisional Officer,
Sankari,
Salem District.

4.The Tahsildar,
Edappadi,
Salem District.

5.The Commissioner,
Edapadi Municipality,
Edapadi,
Salem District.

+1cc to the Government Pleader Sr.10755
+1cc to Mr.R.S.Selvam, Advocate Sr.10094
+1cc to Mr.R.Marudhachalamurthy, Advocate Sr.10377
+1cc to M/s.B.Gopalakrishnan, Advocate Sr.10176

W.P.No.13241 of 2008

nk[co]
srg 11/04/2022