



WEB COPY



W.P.No.17651 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.04.2023

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.17651 of 2013 and
M.P.No.1 of 2013

Church of South India Trust Association
[Regd. No.112 of 1947-1948]
Coimbatore Diocese
Rep. by its Property Officer
256, Race Course Road
Coimbatore – 641 018.

.. Petitioner

VS

1. The District Collector
Salem.

2. The Revenue Divisional Officer
Salem.

3. The Taluk Tahsildar
Taluk Office, Salem.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, forbearing the respondents or their men, agents or representative from interfering with the peaceful possession and enjoyment of the petitioner's property situated in T.S.No.18 and 19 of Ward B in Block No.3 of Hasthampatti Village and town of Salem Taluk and District, admeasuring an extent of 4.74 acres mentioned in Doc.No.463/1965 registered in SRO, Salem under the possession and enjoyment of the petitioner.



WEB COPY



W.P.No.17651 of 2013

For Petitioner : Mr.Purujit Narayanan
for Mr.V.Chandrasekaran

For Respondents : Mr.S.Ravichandran
Additional Government Pleader

ORDER

The writ petition is filed to forbear the respondents or their men, agents or representatives from interfering with the peaceful possession and enjoyment of the petitioner's property situated in T.S.Nos.18 and 19 of Ward B in Block No.3 of Hasthampatti Village and Town of Salem District, admeasuring to an extent of 4.74 acres mentioned in Doc.No.463/1965 registered in SRO, Salem under the possession and enjoyment of the petitioner.

2. The petitioner states that they have purchased various properties in Salem Town and the subject property, involved in the present writ petition, was also purchased by the writ petitioner. The property details are set out in the affidavit filed in support of the writ petition. Since, the Tahsildar has initiated action to evict the petitioner from the subject property, the petitioner is constrained to move the present writ petition.



3. The learned Additional Government Pleader appearing on behalf of the respondents brought to the notice of this Court that the writ petitioner alleged that the land comprised in T.S.No.18 to an extent of 1.78 acres belongs to London Mission Girls Training and T.S.No.19 to an extent of 2.96 acres belongs to London Mission Farm land in ladies compound. But, it is not correct. The present Survey No.T.S.No.18 and 19 in Ward-J, Block 3 was treated as Government Poromboke Thotti Ooliyam as per G.O.Ms.No.3212, dated 19.12.1950 (after Madras Estate Abolition and Conversion into Ryotwari Act, 1948). The CSI administrative authorities encroached 4.74 acres and constructed a compound wall and had put up buildings in the land with an intention of land grabbing. Several attempts have been made by the administration for the measurements of land to know the exact position of the Government property. But, the petitioner always raised objection and prevented the measurements from being taken. It is further submitted that the petitioner neither has any patta over the lands in question nor do they have any revenue records standing in their name.

4. He would further submit that in October, 2012, survey was conducted and the lands in T.S.Nos.18 and 19 was measured by the Survey



Department. During the course of the survey, it was found that an extent of 1.78 acres of T.S.No.18 and 2.96 acres in T.S.No.19, totalling to 4.74 acres, was found to have been encroached by the writ petitioners. Hence on 10.01.2013, a notice under Section 7 of the Tamil Nadu Land Encroachment Act, 1905 was sent to the encroachers, namely the writ petitioner. However, the writ petitioner refused to receive the notice. Hence a copy of the notice was affixed in the compound wall of the writ petitioner in the presence of witnesses on the same day. Since the writ petitioner neither replied to the notice nor appeared before the third respondent, further notice under Section 5 was sent to the writ petitioner on 25.01.2013. Even this notice was refused by the writ petitioner and hence, the same was affixed in the compound wall at the petitioner's premises in the presence of witnesses. Subsequently, on 11.02.2013, a show cause notice was sent to the writ petitioner calling upon them to vacate the encroached area within 15 days.

5. Since the writ petitioner did not vacate the encroachment, on 15.06.2013, at about 1.00 pm, the Tahsildar, Salem along with the Revenue Inspector, Salem Town and the Village Administrative Officer, Hasthampatti attempted to carry out the eviction of the encroachment.



W.P.No.17651 of 2013

Later, the priest of the petitioner Association, namely Mr.Jayaseelan had physically carried about 30 mentally challenged children to the main road and inhumanly placed them in the centre of the road, thereby, blocking the traffic. It is pertinent to mention here that the mentally challenged children had no idea as to why they were made to sit on the road. After about one hour, the children were taken away from the road at the intervention of the Police and Revenue Officials.

6. After the above incident, the writ petitioner and school authorities attended the Taluk office on 15.06.2013 and requested not to carry out any eviction. The Tahsildar, Salem has directed the petitioner to produce any documentary evidence such as patta for the land before 19.06.2013. In this connection, the petitioner sent a letter to the Collector on 16.06.2013 requesting 15 days time for production of relevant records, since it is to be received from their head office at Coimbatore. But without producing the relevant records, they have filed this present writ against the officials and by suppressing the above facts and obtained orders of *status quo* granted by this Court in M.P.No.1 of 2013 and M.P.No.2 of 2013 in W.P.No.17651 of 2013 on 28.06.2013. The lands in question are classified as Thotti Ooliyam and the Government is the sole owner of the property.



But the school authorities, knowing well this fact and to grab the land, encroached an extent of 4.74 acres and constructed school buildings and other allied constructions.

7. After the order of *status quo* was granted, on 03.07.2013, the writ petitioner had engaged in tilling the land with tractor, in spite of the order of the *status quo*. Thus, they have violated the Hon'ble High Court order and hence the Village Administrative Officer, Hasthampatti went to the petitioner's premises and informed that they cannot change the nature of soil in view of the *status quo* order. Aggrieved by the Village Administrative Officer's request, the school authorities came with a group of rowdies and pushed the Village Administrative Officer and the Village Assistants and locked them in the premises for more than two hours and abused with unparliamentary words and filthy language. But the Village Administrative Officer managed to escaped with the assistance of Tahsildar, Salem who was engaged on reception duty with Minority Commission Chairman and were present on some other official duty. Then, the Village Administrative Officer was released from the premises and came to the Hasthampatti Police Station and lodged a complaint against the school authorities, which was registered in



W.P.No.17651 of 2013

Crime No.279 of 2013 for offences under Sections 353, 294(b), 342 of the

Indian Penal Code. Further, the Village Administrative Officer association and Village Assistants association, aggrieved by the act of the school authorities in locking the concerned Village Administrative Officer and his assistants at the premises, had proposed to boycott their work on 05.07.2013 and demanded to take action against the school authorities and also to arrest them. This incident created a law and order problem in the District and after peace talks, they had postponed the boycott.

8. With reference to the above submissions made based on the counter affidavit filed by the respondents, this Court is of the considered opinion that the authorities competent are bound to initiate actions to vacate the encroachers.

9. It is brought to the notice of this Court that action was initiated and the notice was issued under the Land Encroachment Act and the petitioners had refused to receive notice and it was affixed in the premises of the petitioner.

10. The learned counsel for the petitioner made a submission



W.P.No.17651 of 2013

that they have not received any such notice. Be that as it may. This Court is of the considered opinion that once it is ascertained by the competent authorities that the lands belonging to the Government as per the revenue records and such lands are encroached upon by the petitioner, who is an Association, then, the competent authorities are bound to evict all these persons by following the procedures as contemplated under the Tamil Nadu Land Encroachment Act, 1905.

11. The writ petition was filed in the year 2013. The petitioner is in occupation of the Government land under the guise of the interim order passed by this Court. Such litigious occupation, at no circumstances, be allowed and the present writ petition is pending for the past about ten years and the petitioner is illegally enjoying the Government property based on the interim order.

12. This being the factum established, the petitioner-Association is not entitled for any relief and more-so, they failed to produce any documents to establish their case.



W.P.No.17651 of 2013

13. Accordingly, the writ petition stands dismissed. However, there will be no order as to costs. Consequently, the connected miscellaneous petitions are closed.

Index : Yes/No
Neutral Citation : Yes/No

25.04.2023

drm/Svn

To:

1. The District Collector
Salem.
2. The Revenue Divisional Officer
Salem.
3. The Taluk Tahsildar
Taluk Office, Salem.



WEB COPY



W.P.No.17651 of 2013

S.M. SUBRAMANIAM, J.

drm/Svn

W.P.No.17651 of 2013

25.04.2023