



WP.Nos.31630 of 2005 & 1105 of 2006

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.10.2023

CORAM

THE HON'BLE Mr. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.Nos.31630 of 2005 & 1105 of 2006

and

W.P.M.P.Nos.34671 & 34672 of 2005 & 947 of 2006

W.P.No.31630 of 2005

M.R. Vijayakumar

....

Petitioner

Vs

1. State of Tamil Nadu,
rep. by its Secretary to Government,
Home Department,
Secretariat, Chennai – 9.

2. State of Tamil Nadu,
rep. by its Secretary to Government,
Revenue Department,
Secretariat, Chennai – 9.

3. District Collector,
Salem District, Salem.

4. Superintendent of Police,
Salem, Salem District.

5. A.Sukumaran

6. R.Dakashnamoorthy

7. K.Anbalagan

8. D.Anantha Krishnan



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9. Thirumalaran

10. Nataraj

(R5 to R10 impleaded as per order dated
24.07.2013 in WPMP No.85 of 2012 in
W.P.No.31630 of 2005)

.... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India praying to issue Writ of Certiorarified Mandamus calling for the records pertaining to the order passed by the 3rd respondent in his proceedings Na.Ka.74796/2004 K.3 dtd 12.04.2005 and quash the same and direct the 3rd respondent to take action on the revenue officials for their unlawful highhanded action in demolishing the dwelling house and stealthily removing cash and jewels and other household articles with further direction directing the respondents to return all the goods and articles which are now in the custody of Village Administrative Officer, Periagoundampuram and to adequately compensate by paying liquated damages by way of money of Rs.5,00,000/- (Rupees Five Lakhs only) with interest as may be fixed by this Hon'ble Court (**Prayer amended as per order dated 12.06.2012 in WPMP No.86 of 2012 in W.P.No.31630 of 2005**)

For Petitioner	: Mr.B.Balavijayan for Mr.S.Mani & Mr.T.Sellapandiyan
For R1 to R4	: Mr.L.Baskaran Government Advocate (Crl.Side)
For R5	: Mr.S.P.Patel
For R7	: Mrs.G.Nirmala
For R8	: Mr.K.Sanjay
For R9	: Mr.R.Nalliappan



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W.P.No.1105 of 2006

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M.R. Vijayakumar

.... Petitioner

Vs

1. Superintendent of Police,
Salem, Salem District.

2. Inspector of Police,
Karipatti Police Station,
Salem Taluk & District.

.... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India praying to issue Writ of Mandamus directing the respondents to give police protection to the petitioner.

For Petitioner : Mr.B.Balavijayan
for Mr.S.Mani & Mr.T.Sellapandiyan

For Respondents : Mr.L.Baskaran
Government Advocate (Crl.Side)

COMMON ORDER

The W.P.No.31630 of 2005 has been filed challenging the order dated 12.04.2005 passed by the third respondent, thereby rejected the representation submitted by the petitioner for taking appropriate action as against the Revenue Officials for their unlawful highhanded action in demolishing the dwelling house and also stolen cash, jewels and other household articles.



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2. The W.P.No.1105 of 2006 has been filed for direction directing the respondents to give police protection to the petitioner.

3. It is the case of the petitioner that he had constructed a house in the land comprised in Survey No.126/5 ad-measuring 0.17.5 hectares situated at Periagoundapuram Village, Salem District. He has also possessed agricultural land ad-measuring 2½ acres and obtained electricity service connection in S.C.No.667. While being so, the third parties are disturbing his possession and enjoyment and as such, he lodged a complaint as against ten persons before the Inspector of Police, Karippatti Police Station, Salem and the said complaint was registered in Crime No.456 of 2003 for the offences under Sections 147, 148, 447, 427, 506(ii) read with 294(B) of IPC.

4. While being so, the Revenue Officials, without any notice and without conducting any enquiry, completely demolished the entire house owned by the petitioner and had taken over the possession of the land. Therefore, the petitioner submitted a representation to the third respondent, viz., the District Collector, for taking appropriate action. It



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was not considered and as such, the petitioner approached this Court in W.P.No.35304 of 2004 and this Court, by an order dated 14.10.2004, directed the respondents to consider the representation of the petitioner and pass appropriate orders after giving an opportunity to the petitioner.

5. As directed by this Court, the petitioner was summoned and other witnesses were examined by the third respondent. During the enquiry, the third respondent found that the petitioner had encroached the property comprised in Survey No.126/5, which is classified as Poramboke, and constructed a house. After following the procedure as contemplated under the Law, the encroachment made by the petitioner was removed and all the household articles and other things were duly returned to the petitioner. In fact, the petitioner also acknowledged the same.

6. The learned counsel appearing for the petitioner would submit that the petitioner obtained information under Right to Information Act and it reveals that the subject property is under lock and the things were very much available inside the property. The case of the petitioner is that the entire house was demolished by the Revenue



Officials and had taken the articles and other things, which were kept in the house. That apart, proper information was not given to the petitioner prior to demolition of the house. The subject property was furnished to the petitioner by the Panchayat Secretary, who is working under the Panchayat President. Further, it is also not believable one, since it was not furnished under any of the provision.

7. A perusal of the records reveals that the Officials followed the procedures as contemplated under Law and removed the encroachment made by the petitioner. Admittedly, the land, comprised in Survey No.126/5, is a Government Poramboke and the petitioner encroached the said property and constructed a house. As directed by the Revenue Divisional Officer, the Tahsildar followed the procedures and removed the encroachment made by the petitioner. At the time of eviction of the petitioner, there was no objection and the eviction process went smoothly.

8. On perusal of the criminal complaint lodged by the petitioner, it was only as against the third parties and not against the Revenue Officials. After completion of investigation, the Inspector of



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Police, Karippatti Police Station, Salem, filed a final report and the same has been taken cognizance in C.C.No.589 of 2004 on the file of the Judicial Magistrate No.II, Salem. After fulfilled trial, the accused persons were acquitted by the Trial Court. All the allegations are different and no way connected with the Revenue Officials. It is also revealed that the said property comprised in Survey No.126/5 assigned as burial ground allotted in favour of the persons who belonged to Adi Dravidar. The petitioner is nothing but the land encroacher and the Revenue Officials removed the encroachment made by him. Hence, the third respondent, after giving opportunity to the petitioner and after conducting detailed enquiry, had rightly rejected the representation submitted by the petitioner. Hence, this Court finds no infirmity or illegality in the order passed by the third respondent and the writ petition is devoid of merits and is liable to be dismissed. Accordingly, W.P.No.31630 of 2005 stands dismissed.

9. Subsequently, the petitioner sought for police protection in W.P.No.1105 of 2006 for removal of encroachment, as if he is in possession and enjoyment of the subject property. Therefore, the prayer sought for in the above writ petition has become infructuous. That apart,



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the petitioner is a land encroacher and no police protection can be given that too to enjoy the said property. Therefore the writ petition is devoid of merits and is liable to be dismissed. Accordingly, W.P.No.1105 of 2006 stands dismissed.

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Index:Yes/No
Internet:Yes/No
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To

1. The Secretary to Government,
Home Department,
Secretariat, Chennai – 9.

2. The Secretary to Government,
Revenue Department,
Secretariat, Chennai – 9.

3. The District Collector,
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5. The Inspector of Police,
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