



WEB COPY



W.P.No.5426 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.02.2023

CORAM :

THE HON'BLE MR.T.RAJA, ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.5426 of 2023

S.Murugan

.. Petitioner

Vs

- 1 The District Collector
Salem District, Salem.
- 2 The Revenue Divisional Officer
Mettur Dam- 636401, Salem District.
- 3 The Tahsildar
Mettur Taluk Office
Mettur Dam- 636 401
Salem District.
- 4 The Assistant Divisional Engineer
Rural Highways Department
District Combined Court
Salem backside
Salem- 636 007.
- 5 The Assistant Engineer
Rural Highways Department
District Combined Court
Salem backside, Salem- 636 007.



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6 The Block Development Officer
Mecheri panchayat
Mettur Taluk, Salem District.

7 Kandasamy
8 Selvendran
9 Prabhakaran

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of mandamus directing the respondents 5 and 6 not to evict the petitioner from the premises which is situated in Old survey No.132a to the ex.4.57.5 and New Survey No.394/6 to the total extent of 0.9010.0 which is situated at Pottaneri Village, Mecheri, Mettur Taluk, Salem District based on the representation of the petitioner dated 11.02.2023.

For the Petitioner : Mr.M.Senthilkumar

For the Respondents : Mr.J.Ravindran
Addl. Advocate General
assisted by
Mr.A.Selvendran
Spl. Government Pleader
for respondents 1 to 5

: Mrs.R.Anitha
Spl. Government Pleader
for respondent No.6



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ORDER

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S.Murugan, son of Semban, a resident of Pottaneri Village, Mettur Taluk, Salem District, has filed this writ petition seeking issuance of a writ of mandamus directing respondents 5 and 6 not to evict the petitioner from the premises which is situated in Old Survey No.132A to the extent of 4.57.5 and New Survey No.394/6 to the total extent of 0.9010.0 which is situated in Pottaneri Village, Mecheri, Mettur Taluk, Salem District, based on the representation of the petitioner dated 11.02.2023.

2. Mr.M.Senthilkumar, learned counsel appearing for the petitioner, would submit that the land in question was originally owned by one Lakshmanan, who sold it to the petitioner's father in the year 1994. The petitioner's father settled the property in favour of petitioner vide a registered document bearing No.2957/2006, dated 15.12.2006. The petitioner claims to be in continuous possession and enjoyment of the said land and is cultivating the



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same. The petitioner approached the respondent authorities to issue patta. As the fifth respondent was trying to evict the petitioner, he filed a civil suit in O.S.No.144 of 2015 before the learned District Munsif, Mettur, which was decreed in favour of the petitioner on 27.7.2021. It is stated that, at the behest of respondents 7 to 9, the fourth respondent is attempting to evict the petitioner. The grievance of the petitioner is that without issuing any notice, the respondent authorities are taking steps to evict the petitioner. Hence, the petitioner has been advised to file this writ petition.

3. We do not find any merit in the aforesaid submission made by learned counsel appearing for the petitioner for the simple reason that, in paragraph (5) of the affidavit, the petitioner has averred that notice under Section 7 of the Tamil Nadu Land Encroachment Act, 1905 has been issued. Therefore, the effort of the petitioner to conceal the fact about issuance of notice under Section 7 of the Act has been spelled out in paragraph (5) inadvertently, though the petitioner all along claimed that without issuance of notice the respondent authorities are attempting to evict



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the petitioner. The typed-set of documents also does not contain the notice issued under Section 7 of the Act. This only shows that the petitioner has not approached this court with clean hands and had suppressed the vital document, which is the notice issued under Section 7 of the Act.

4. A party seeking invocation of the extraordinary, equitable and discretionary under Article 226 of the Constitution of India must come to the court with the clean hands. In other words, he must put forward all the facts before the Court without concealing or suppressing any material fact. In the case on hand, the petitioner although inadvertently averred that notice under Section 7 of the Act was issued, all along in the pleadings, the specific averment was that the respondent authorities are attempting to evict the petitioner without issuing any notice. That apart, a copy of the notice received has not been appended in the typed-set of papers. This court, therefore, finds no reason to exercise its extraordinary jurisdiction under Article 226 of the Constitution of India.



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For the foregoing reasons, the writ petition is dismissed.

There will be no order as to costs. Consequently, W.M.P.No.5446 of 2023 is closed.

(T.R., ACJ.) (D.B.C., J.)
24.02.2023

Index : No

Neutral Citation : No

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