



WP Nos.9971 & 9975/2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.03.2023

CORAM

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

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

WP Nos.9971 and 9975 of 2023

WP No.9971 of 2023

A.Babu

... Petitioner

versus

1.The Additional Chief Secretary/
Commissioner for Revenue Administration
Revenue and Disaster Management Department
Chepauk, Chennai - 600 005.

2.The District Collector,
Salem District, Salem.

3.The Revenue Divisional Officer
Sangagiri, Salem District.

4.The Tahsildar
Edappadi Taluk
Edappadi, Salem District.

... Respondents

Prayer: Writ Petition under Article 226 of the Constitution of India
praying for a writ of mandamus forbearing the respondents from
evicting and demolishing the petitioner's building situate in S.No.257/



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1A2(Part) and 257/1A3(part) T.S. No. 140 and 150 Ward-F Block-20,
Avaniperur, Keelmugam Village, Edappadi Taluk, Salem District.

WP No.9975 of 2023

A.Rajapandian

... Petitioner

versus

1.The Additional Chief Secretary/
Commissioner for Revenue Administration
Revenue and Disaster Management Department
Chepauk, Chennai - 600 005.

2.The District Collector,
Salem District, Salem.

3.The Revenue Divisional Officer
Sangagiri, Salem District.

4.The Tahsildar
Edappadi Taluk
Edappadi, Salem District.

... Respondents

Prayer: Writ Petition under Article 226 of the Constitution of India
praying for a writ of mandamus forbearing the respondents from
evicting and demolishing the petitioner's building situate in S.No.257/1
and 257/1B, 257/1A1 (Part) and 257/1A3 (Part) in old T.S.No.66(Part)
New T.S.No.151 and T.S.No.69/1, Avaniperur Keelmugam Village,
Edappadi Taluk, Salem District.

For the Petitioner : Mr.C.Prakasam

For the Respondents : Mr.P.Muthukumar,
State Government Pleader



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COMMON ORDER

(Made by the Hon'ble Acting Chief Justice)

The petitioners have filed these writ petitions seeking a writ of mandamus forbearing the respondents from evicting and demolishing the petitioners' building situate in S.No.257/1A2(Part) and 257/1A3(part), T.S.Nos.140 and 150, Ward-F, Block-20, Avaniperur, Keelmugam Village, Edappadi Taluk, Salem District and in S.No.257/1 and 257/1B, 257/1A1 (Part) and 257/1A3 (Part) in old T.S.No.66(Part) New T.S.No.151 and T.S.No.69/1, Avaniperur Keelmugam Village, Edappadi Taluk, Salem District.

2. Learned counsel for the petitioners submitted that the petitioners have purchased the subject lands by way of registered sale deeds. The petitioners approached the revenue officials for issuance of patta for the said lands and the fourth respondent Tahsildar had also issued patta in their favour. The same has also been entered in the Village 'A' Register. The petitioners are in possession and enjoyment of the lands, by putting up constructions.



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3. Learned counsel for the petitioners submitted that the subject lands are classified as 'village natham' and several persons have constructed houses in T.S.Nos.66, 69 and 70 and all are paying property tax and water tax to the Edappadi Municipality. But subsequently, the said village natham has been re-classified as 'Government hospital land'.

4. Mr.P.Muthukumar, learned State Government Pleader, submitted that till date no steps have been taken for removal of encroachment. Admittedly, there is no notice under Section 7 of the Tamil Nadu Land Encroachment Act, 1905, or any proceeding under Section 6 of the said Act has been issued against the petitioners. The petitioners have approached this Court prematurely and therefore, the writ petitions are liable to be dismissed.

5. We find merits in the submissions made by learned State Government Pleader. When there is no notice or proceeding issued by the respondents against the petitioners, the petitioners need not have approached this Court. The writ petitions therefore fail and they are dismissed. We make it clear that if the respondents intend to take any



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action for removal of encroachment, they should follow the due procedures as per law.

6. There will be no order as to costs. Consequently, WMP Nos.10021 and 10030 of 2023 are closed.

(T.R., ACJ.) (D.B.C., J.)
31.03.2023

Index : Yes/No
Neutral Citation : Yes/No
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T.RAJA, ACJ,
and
D.BHARATHA CHAKRAVARTHY, J.

(tar)

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