



WEB COPY



WP No. 13777 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.02.2023

CORAM

THE HONOURABLE MR. JUSTICE R. MAHADEVAN
and
THE HONOURABLE MR. JUSTICE P.B. BALAJI

Writ Petition No. 13777 of 2019
and
W.M.P. No. 16059 of 2019

P. Suguna

.. Petitioner

Versus

1. The District Collector
Salem District
Salem - 636 001

2. The Revenue Divisional Officer
Salem - 636 001

3. The Revenue Tahsildar
Salem West
Salem

4. Venkatachalam

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for a Writ of Mandamus directing the respondents 1 to 3 to consider the representation dated 06.10.2018 sent by the petitioner and take suitable action to remove the encroachment and illegal constructions and other obstructions made by the fourth respondent and his deceased father in the pathway poromboke land in Survey No. 28/18 (Old Survey No. 38/2), Reddiyur Village, Salem West Taluk, Salem District, forthwith.



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For Petitioner : Mr. P. Jagadeesan
For Respondents : Mr. A. Selvendran,
Special Government Pleader for RR1 to 3
No representation for R4

ORDER

[Order of the Court was made by R.MAHADEVAN,J,]

The Petitioner has filed this writ petition praying to issue a Writ of Mandamus directing the respondents 1 to 3 to consider her representation dated 06.10.2018 and take suitable action to remove the encroachment and/or illegal constructions and obstructions made by the fourth respondent and his deceased father in the pathway poromboke land comprised in Survey No. 28/18 (Old Survey No. 38/2), Reddiyur Village, Salem West Taluk, Salem District, forthwith.

2. According to the petitioner, she is the owner of the land comprised in Survey No. 38/5B4A measuring 7599 square feet in Reddiyur Village, Salem Taluk as per the registered settlement deed dated 12.10.2000 executed in her favour by her husband. On the strength of the settlement deed, the petitioner also obtained Patta in her name and as per Patta, the Survey Number of her property is T.S. No. 28/21 and T.S. No. 28/22 in Ward No. C, Block No.4, within Corporation of Salem.



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3. The petitioner would contend that the land in Survey No. 28/18 (Old Survey No. 38/2) served as the pathway to reach her property from Nagarmalai Road and other areas in the locality. The grievance of the petitioner is that the fourth respondent and his father had constructed a Garudalwar Temple with permanent structures in the said pathway and they have also planted trees around the temple. It is also stated that the fourth respondent did not obtain separate electricity service connection for the temple, instead, he had stealthily fixed electricity cable through her property and was receiving electricity service connection from the house of one Kandayee, situated on the northern side of the temple. In this regard, the petitioner has filed WP No. 28318 of 2017 before this Court to direct the TANGEDCO authorities to take suitable action to remove the electricity cable routed through the house of the petitioner to the illegally constructed temple and the writ petition is pending.

4. The petitioner would further contend that by reason of the construction of the temple, in the pathway leading to her property, she was prevented from gaining access to her property. To prevent further encroachment of the pathway, the petitioner intended to put up a compound wall enclosing her property, but that was prevented by the fourth respondent



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and her men. Therefore, the petitioner has given a complaint to the local police on 28.07.2017, but they did not take any action. Hence, the petitioner filed Crl.OP No. 19380 of 2017 before this Court and this Court, by an order dated 21.09.2017 directed the respondents-police therein to take action on the basis of the complaint given by the petitioner on merits.

5. The petitioner would further contend that the temple has been constructed by the fourth respondent in the pathway, which is specifically indicated as "cart track" in the revenue records. In this regard, the petitioner submitted a representation on 06.10.2018 to the respondents 1 to 3 to remove the encroachments and obstructions/constructions made by the fourth respondent in a land classified as cart track. As there was no response, the petitioner is before this Court with this writ petition.

5. The learned Special Government Pleader appearing for the respondents 1 to 3 has no serious objection to issue a direction to the third respondent to pass orders on the representation dated 06.10.2018 of the petitioner.



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6. In the light of the above submission, the petitioner is directed to submit a copy of the representation dated 06.10.2018 along with this order to the third respondent, within a period of two weeks from the date of receipt of a copy of this order. On receipt of the same, the third respondent is directed to consider the representation of the petitioner, afford an opportunity of hearing to the petitioner as well as the fourth respondent and pass an order on merits and in accordance with law, within a period of eight weeks thereafter. It is made clear that if there is any encroachment made by the fourth respondent in the land classified as "pathway" in the revenue records, as complained by the petitioner, the third respondent shall remove the same by following the due process of law.

7. Accordingly, this writ petition is disposed of. No costs. Consequently, connected WMP No. 16059 of 2019 to implead the Commissioner, Salem Corporation as fifth respondent in this writ petition is closed.

(R.M.D., J) (P.B.B., J)

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ay/rsh

Index: Yes / No

Speaking Order / Non-speaking Order

Neutral Citation: Yes / No



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