



W.P. No. 21158 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.12.2023

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THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

**W.P. No. 21158 of 2023
and
W.M.P. No. 20556 of 2023**

1. A.B. Chandrasaker

2. S.Natarajan

... Petitioners

-VS-

1. The Secretary to Government,
Municipal Administration and Water Supply Department,
Fort St.George,
Chennai – 600 009.
2. The District Collector,
Salem District,
Salem.
3. The Commissioner,
Edanganasalai Municipality,
8/442, Sangagiri Taluk,
Near Kadyampatti Perumal Koil,
Salem District.
4. The Tahsildar,
Salem South,
Salem.
5. The President,
Elampillai Town Panchayat,
Salem Taluk,
Salem District.



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6. The Village Administrative Officer,
Elampatti Village,
Salem Taluk,
Salem District.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Mandamus, forbearing the Respondents herein from interfering the peaceful possession and enjoyment of the Petitioners patta land situated in New Survey No. 102/1, 103 and old Survey No. 13/1A1A mentioned in Patta No. 305 in Elampillai Village, Salem Taluk, Salem District, without due process of law.

For Petitioner : Mr. T.Mohan
Senior Counsel
for Mr. T.Dharani

For Respondents : Mr. U.Baranidharan,
Additional Government Pleader
(for R1, R2, R4 & R6)

Mrs. S.Anitha (for R3 & R5)

ORDER

Heard Mr. T.Mohan, Learned Senior Counsel for the Petitioner, Mr. U.Baranidharan, Learned Additional Government Pleader appearing for the First, Second, Fourth and Sixth Respondents and Mrs. S.Anitha, Learned Counsel for the Third and Fifth Respondents and perused the materials placed on record, apart from the pleadings of the parties.



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2. The grievance ventilated by the Petitioner is that the Third to Fifth Respondents without any authority of law are high-handedly laying road with underground drainage in his land mentioned in Patta No. 305 situated at New Survey No. 102/1, 103 and Old Survey No. 13/1A1A in Elampillai Village, Salem Taluk, Salem District, and that his representation dated 30.06.2023 has not evoked any response, which has necessitated the filing of this Writ Petition.

3. In furtherance to the order dated 21.11.2023 passed by this Court, the Fourth Respondent has filed Status Report dated 20.12.2023, which reads as follows:-

“ It is humbly submitted the Hon'ble Court has been ordered 21.11.2023 in W.P. No. 21158 of 2023 and W.M.P. No. 20556 of 2023 to inspect the property and measure the same with reference to the revenue records to ascertain as to whether the contention of the Petitioner is factually correct and submit report on the next hearing.

I humbly submit that originally the Survey No. 13/1, Patta No. 305 to an extent of 0.64.0 Hec of Ellampillai Village



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was registered in the name of A.Subramaniyam and others two. (A.Sundaram and A.Shanmugam) as per the 'A' register of Elampillai Village, Salem South Taluk.

I humbly submit that the Survey Number 13/1 was converted in to Natham Survey Numbers as 102/1, 103/1, 103/2 and 103/3. After that the Old Survey Number 13/1 was sub-divided as Survey Number 13/1A1A in the names of Sundaram, A.B.Chandrasekar, S.Natarajan, S.Padmanaban, S.Sivakumar, Rajendran and Ravi to an extent of 0.56.5 hec in Patta No. 305, Natham Survey Nos. 103/1 and 103/2 were registered to an extent of 0.0345.0 Sq.meter 0.0291.0 Sq.meter respectively as “Ryot Punjai Vacant Site”. The Natham Survey No. 102/1 of Ellampillai Village was registered to an extent of 0.5560.0 Sq.meter as “Ryot Manai” in the name of Sanmugam and 7 others in Natham Patta.

I humbly submit that on 07.12.2023, Survey work was carried out as per the direction given in W.P. NO. 21158 of



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2023 dated 21.11.2023 as detailed in the table. In the UDR FMB, to the North of Survey No. 13/1 of Ellampillai Village, detailed mark of “Foot Path” and “Odai” were present. In the FMB of Revenue Village, below 4-Meter width of “Foot Path”, “Odai” and “Cart Track” are mentioned as detailed marks and more than 4 Meter width of “Foot Path, “Odai” and “Cart Track” are mentioned by separate field or Sub-division.

Table

Points in the Survey No. 13/1A1A (New Survey Nos. 102/1, 103/1, 103/2) in the Vacant placed	The width of the vacant place in the S. No. 13/1A1A (New S. Nos. 102/1, 103/1, 103/2) (in meter)
B to O	3.2
C to N	1.8
D to M	2.0
E to L	4.6
F to K	5.0
G to J	11.6
H to I	14.0

I humbly submit that after the completion of survey, it reveals that the Survey Number 13/1A1A (New Number 102/1, 103/1 and 13/2) of Ellampillai Village to an extent of 0.56.5 hec



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in Patta No. 305 belongs to Sundaram, A.B.Chandrasekar, S.Natarajan, S.Padmanaban, S.Sivakumar, Rajendran and Ravi.

In the above Patta land detailed mark of “Foot path” and “Odai” are present without any encroachments in the vacant site as detailed in table above.”

In such circumstances, it shall be incumbent upon the Respondents as well as the concerned authorities of the State to forthwith take all necessary measures for protection of the said property of the Petitioners in accordance with the mandate of Article 300-A of the Constitution of India, 1950, and in the event of any unauthorised invasion of their said property, the Petitioners are not precluded from resorting to working out their remedies before the property forum in the manner recognized by law.

4. At the same time, it is made clear that nothing said in this order shall be construed as creating any fetter on the powers of the concerned authorities to take action against the Petitioners in accordance with law if they encroach upon any adjacent public road under the guise of safeguarding their private property as mentioned in the Counter-Affidavit dated 11.08.2023 filed by the Third Respondent.



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In the result, the Writ Petition is disposed with the aforesaid observations.

Consequently, the connected Miscellaneous Petition is closed. No costs.

21.12.2023

Index: Yes/No

NCC: Yes/No

Note: Issue order copy by 05.06.2024.

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To

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Municipal Administration and Water Supply Department,
Fort St.George,
Chennai – 600 009.
2. The District Collector,
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Salem.
3. The Commissioner,
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P.D. AUDIKESAVALU, J.

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