



W.P.No.34694 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **25.01.2023**

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.No.34694 of 2022 and
W.M.P.Nos.34121 & 34119 of 2022

1. K.Seerangan
2. S.Govindaraj

.. Petitioners

Vs.

1. The Commissioner,
Veerapandi Panchayat Union,
Veerapandi, Salem District.
2. The President,
Maramangalathupatty Village Panchayat,
Maramangalathupatty Village,
Salem District.
3. The Tahsildar,
Salem West, Taluk Office,
Sooramangalam,
Salem - 636 005.
4. The District Collector,
Collectorate, Salem - 636 001.
5. The Commissioner of Police,
Salem City, Salem.
6. The Inspector of Police,
Steel Plant Police Station,
Salem - 636 013.



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7. S.Subramani

.. Respondents

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Prayer : Writ Petition has been filed under Article 226 of the Constitution of India seeking a Writ of Certiorari calling for the records relating to the order of the 1st respondent dated 11.11.2021 in Na.Ka.No.2678/2020/thi2 and the consequential order of the 2nd respondent dated 10.11.2022 and quash the same.

For Petitioners : Mr.K.Selvaraj

For Respondents 1 & 2 : Mr.K.H.Ravikumar
Government Pleader

For Respondents 3 to 6 : Mr.V.Nanmaran
Additional Government Pleader

For Respondents 7 : Mr.B.Manimaran

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ORDER

This writ petition has been filed challenging the impugned notice issued by the President of Maramangalathupatty Village Panchayat holding that the petitioners have encroached upon the property belonging to one Mr.Aruljothi and Mr.Subramani and they have constructed a bathroom and compound wall.



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2. The learned counsel appearing for the petitioners mainly contended that previously the 7th respondent has filed a writ petition before this Court in W.P.No.6293 of 2020 to consider his representation dated 23.09.2019. A Division Bench of this Court by an order dated 18.03.2020, has directed the petitioner therein/7th respondent herein to file a Civil Suit before the appropriate forum for eviction of the 3rd respondent therein/first petitioner herein. While disposing of the above writ petition the Commissioner of Panchayat was also directed to consider the said representation.

3. Whereas, taking advantage of the above order, the second respondent Panchayat President who happens to be a close friend of the 7th respondent passed an order as if there was encroachment of the 7th respondent property by the petitioners and passed an order for removal.

4. Mr.B.Manimaran, learned counsel appearing for the 7th respondent submitted that the property has been properly measured by the Tahsildar and found out that there is an encroachment in the 7th respondent land. Therefore, the impugned order does not require any interference.



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5. I have heard the learned counsel on either side and also perused the entire materials.

6. At the outset, this Court is of the view that already a Division Bench of this Court has directed the 7th respondent to file a suit for declaration of title before the concerned Civil Court. Merely on the ground that a representation has been directed to be considered by the first respondent Commissioner, the second respondent President of the Panchayat in his individual capacity has passed an order as if there is an encroachment and gave a finding as if a Civil Court.

7. It is relevant to note that even assuming that there is encroachment, whether such encroachment is made with the acquiescence of the parties or made beyond the period of limitation, all these matters have to be gone into by a Civil Court. Therefore, merely on the whims and fancies of the Panchayat President such decision cannot be arrived.

8. Such view of the matter, the impugned order is set aside and if at all the 7th respondent has any grievance he can pursue his remedy as directed by the Division Bench of this Court in W.P.No.6293 of 2020 dated



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18.03.2020 by approaching the concerned Civil Suit for eviction.

Accordingly, this writ petition is allowed. Consequently, the connected miscellaneous petitions are closed. No costs.

25.01.2023

Index : Yes / No

Neutral Citation : Yes / No

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