



WEB COPY



W.P.No.16058 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.09.2024

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THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.16058 of 2015

and

M.P. No. 1 of 2015

Amarendra Babu @ R.A.Babu

... Petitioner

Vs

The Commissioner,
Salem Corporation, Salem.

... Respondent

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondent to remove the fence which was put up by the respondent partially around the properties existing in S.F.No. 75/2A1A1A1A1A of Bodinaickenpatti Village, Salem District, consequently restrain the respondent or their men or agents from disturbing with the possession of the petitioner over the said property by holding that the respondent has no existing right over the said property.

For Petitioner : Mr. L.Pachaiyappan
for Mr.N.Vijaya Basker

For Respondent : Mrs. N.Devi,
Standing Counsel



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ORDER

This Writ Petition has been filed for directing the respondent to remove the fence, which was put up by the respondent partially around the properties existing in S.F. No. 75/2A1A1A1A1A, situated at Bodinaickenpatti Village, Salem District. Consequently, the petitioner seeks to restrain the respondent, their men, or agents from disturbing the petitioner's possession over the said property, on the ground that the respondent has no existing right over the said property.

2. The learned Standing Counsel appearing for the respondent, on instructions, states that the said land was part of the layout and was originally earmarked for a children's park and playground.

3. However, the learned counsel for the petitioner would submit that after the layout approval was granted in the year 1975, the land earmarked for public purpose was not gifted in favour of the respondent. In the year 1990, the petitioner's father was issued a notice to settle the property in their favour, but it was not done. Despite this, the respondent did



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not take any action, and as per Section 38 of the Tamil Nadu Town and Country Planning Act, 1971, the earmarking has lapsed. Nevertheless, the respondent has put up constructions in and around the land, which was originally earmarked for common purposes.

4. In view of the above, the respondent is directed to conduct an enquiry on the representation dated 03.04.2015 made by the petitioner after issuance of notice to the petitioner and counter parties, if any and after giving opportunity of hearing to them, pass orders on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order.

5. With the above directions, this Writ Petition is disposed of. Consequently, the connected Miscellaneous Petition is closed. No costs.

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Index:Yes/No
Neutral Citation/Yes/No
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G.K.ILANTHIRAIYAN, J.

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To

The Commissioner,
Salem Corporation, Salem.

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