



WP.No.21092 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.07.2024

CORAM

THE HONOURABLE MR.JUSTICE **M.SUNDAR**
and
THE HONOURABLE MRS.JUSTICE **K.GOVINDARAJAN THILAKAVADI**

W.P.No.21092 of 2024
and W.M.P. No.23031 of 2024
in W.P.No.21092 of 2024

A.Rathinavel

... Petitioner

Vs.

1.The Secretary,
Revenue and Disaster Management Department,
Land Disposal Wing LD 6(2) Section,
Secretariat, Fort St. George,
Chennai – 600 009.

2.The District Collector,
Salem District.

3.The Tahsildar,
Taluk Office, Salem District.

4.Revenue Inspector,
Valasaiyur, Salem Taluk,
Salem District.

... Respondents

Writ Petition filed under Article 226 of The Constitution of India
praying to issue a Writ of Certiorari to call for the entire records

Page Nos.1/8



WP.No.21092 of 2024

relating to the order passed by the First Respondent in his proceedings in G.O.(Ms).No.594, Revenue and Disaster Management Department, Land Disposal Wing, LD 6(2) section dated 21.12.2023 confirming the order passed by the second respondent in Na.Ka.E177387/2022/K4, dated 13.01.2022 confirming the notice dated 24.08.2022 issued by the 4th respondent under Section 7 of the Tamil Nadu Land Encroachment Act, 1905 and the final notice dated 10.10.2022 issued by the 3rd respondent under Section 6 of the said Act, which was served on the petitioner on 12.12.2022 and quash the same pertaining to the petitioner's agricultural land in S.No.105/1 measuring about 1.50 acre, Velliyampatti Village, Salem Taluk, Salem District.

For Petitioner : Mr.P.Jagadeesan

For Respondents : Mr.P.Balathandayutham
Special Government Pleader

ORDER

[Order of the Court was made by **K.GOVINDARAJAN THILAKAVADI, J.,**]

Writ petitioner seeks issuance of a writ of certiorari assailing



WP.No.21092 of 2024

the orders passed by the first respondent vide G.O.Ms.No.594 Revenue and Disaster Management Land Disposal Wing LD 6(2) Section dated 21.12.2023 confirming the order passed by R2 in Na.Ka.No.E177387/2022/K4 dated 13.01.2023 confirming the notice dated 24.08.2022 issued by R4 under Section 7 of 'The Tamil Nadu Land Encroachment Act, 1905 (Tamil Nadu Act III of 1905)' (hereinafter 'said 1905 Act' for the sake of brevity) and the final notice dated 10.10.2022 issued by R3 under Section 6 of said 1905 Act and quash the same pertaining to the petitioner's agricultural land in Survey No.105/1 measuring 1.50 acres at Velliyampatti Village, Salem Taluk, Salem District.

2. The petitioner's case is that he is in possession and enjoyment of land measuring 1.50 acres in Survey No.105/1 of Velliyampatti Village, Salem Taluk, Salem District from the year 1987. The said land is classified as Tharisu poramboke. His further contention is that though the said land is unfit for cultivation, he had made developments in the said land spending huge amount of money and also constructed cattle shed and tiled house measuring about 650



WP.No.21092 of 2024

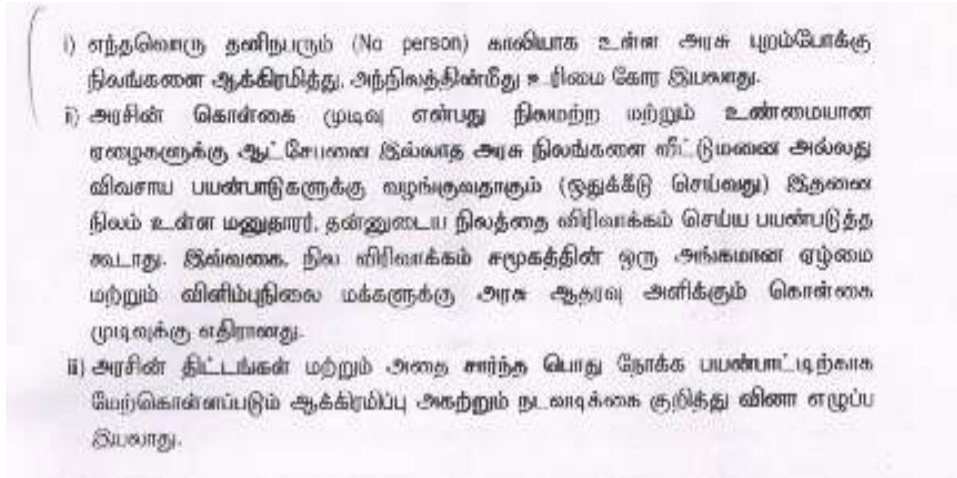
sq.ft. and paying house tax electricity bills regularly. He had also planted 120 coconut trees in the said land. Therefore, he is in possession of the subject matter land for the past 35 years and prescribed title to the said property. However, the fourth respondent issued a notice on 24.08.2022 under Section 7 of 'said 1905 Act' stating that the petitioner is in encroachment of the said land and calling upon him to show cause on or before 09.09.2022, for which he had sent a detailed reply on 05.09.2022. But the third respondent without properly considering the objections made by the petitioner issued Section 6 notice on 10.10.2022 which was served on the petitioner on 12.12.2022. Aggrieved by this, the petitioner preferred an appeal before the second respondent and also preferred a writ petition in W.P. No.27859 of 2022 in which an order was passed on 19.10.2022 directing the second respondent to dispose the appeal within a reasonable time. Thereafter, on 13.01.2023, the second respondent dismissed the appeal preferred by the petitioner. Against the said order, the petitioner preferred a revision under Section 10-A of the said 1905 Act before the 1st respondent and also filed another writ petition in W.P. No.11244 of 2023 which was also dismissed on



WP.No.21092 of 2024

04.02.2023. Aggrieved by the said notices and the orders passed by the concerned authorities, according to the petitioner, he was constrained to file the present writ petition.

3. From a perusal of the order passed by the second respondent on 13.01.2023, it is seen that since the petitioner owns a patta land, he is not entitled to claim any right over the Government poramboke land and therefore he is liable to be evicted from the said land. A scanned reproduction of the relevant portion of the said order is as follows:



4. Issue notice.

5. Mr.P.Balathandayutham, learned Special Government Pleader



WP.No.21092 of 2024

accepts notice for respondents 1 to 4.

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6. The learned Special Government Pleader would submit that the petitioner is in encroachment of the subject Government poramboke land and therefore notices and orders passed are in accordance with law and therefore, the present writ petition is liable to be dismissed. On perusal of records and the submissions made by the respective counsel, we are of the considered opinion that the petitioner is not entitled for any relief before this Court. Though the contention of the writ petitioner that he is in possession of the subject land for more than 30 years, generally, a Writ Court does not enter upon a determination of question which demand an elaborate examination of evidence to establish the right which is sought to be enforced in the writ.

7. The further contention of the writ petitioner is that, apart from the petitioner, there are few other persons in occupation of the said poramboke land in Survey No.105/1. The writ petitioner cannot claim equality in illegality.

Page Nos.6/8



WEB COPY



WP.No.21092 of 2024

8. For the reasons aforesaid, we dismiss this writ petition. No order as to costs. Consequently, connected miscellaneous petition is closed.

(M.S.,J.) (K.G.T.,J.)
26.07.2024

Index : Yes / No
Neutral Citation : Yes / No
mmi/vsn

(2/2)

To

- 1.The Secretary to Government,
Revenue and Disaster Management Department,
Land Disposal Wing LD 6(2) Section,
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- 2.The District Collector,
Salem District.
- 3.The Tahsildar,
Taluk Office, Salem District.
- 4.The Revenue Inspector,
Valasaiyur, Salem Taluk,
Salem District.

Page Nos.7/8



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WP.No.21092 of 2024

**M.SUNDAR, J.,
and
K.GOVINDARAJAN THILAKAVADI, J.,**

mmi/vsn

W.P.No.21092 of 2024

26.07.2024

Page Nos.8/8