



W.P.No.26233 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.02.2024

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P.No.26233 of 2023
and WMP No.27503 of 2023

A.M.Raju

... Petitioner

.Vs.

- 1.The Commissioner of Police
Commissioner of Office, Line Medu
Salem City.
- 2.The Assistant Commissioner of Police
Suramangalam
Salem.
- 3.State rep.by
Inspector of Police
Suramangalam Police Station
Salem.
- 4.Mr.Sundar Raja
- 5.Selvi
- 6.Tamil Selvi
- 7.Manoharan
- 8.Kanagaraj
- 9.Ravikumar
- 10.Pravin
- 11.Kathirvelu



W.P.No.26233 of 2023

12.Kannan

13.Balakrishnan

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the 3rd respondent to consider the petitioner representation dated 25.5.2023 and to provide police protection to fence the Agricultural Land in survey the land in S.No.51/2A with an extent of 25 cents and S.No.51/2B with an extent of 25 cents and S.No.51/2B with an extent of 131/2 cents S.No.51/10G in 10 cents so to fence the total extent of 47 ¼ cents (20583 sq.ft.) and now which comes under Salem City Municipality Corporation in ward-Q, Block No.8, TS.No.8/13 within the jurisdiction of Sooramangalam

For Petitioner : Mr.R.Harikrishnan
for Mr.M.Prem Kumar

For Respondents : Mr.A.Damodaran
Additional Public Prosecutor
for R1 to R3

Mrs.N.Devi
Standing Counsel
Salem Corporation

ORDER

This writ petition was filed seeking for police protection to enable the petitioner to fence the subject property.

2.When the matter came up for hearing on 8.9.2023, this Court passed the following order:

Mr.A.Damodaran, learned Additional Public Prosecutor, takes notice on behalf of respondents 1 to 3.



W.P.No.26233 of 2023

WEB COPY

2. It is seen from records that this Court had already passed an order in W.P.No.31954 of 2022, dated 30.11.2022 after considering the entire facts and circumstances of the case and had directed the respondent police to deal with the representation/complaint given by the petitioner on 16.11.2022. Since this order was not acted upon, the petitioner has once again approached this Court by filing the present writ petition seeking for similar relief.

3. Learned Additional Public Prosecutor is directed to take instructions and report compliance of the earlier order passed on 30.11.2022.

Post this case under the caption 'for reporting compliance' on 22.09.2023.

3.The case was once again posted for hearing on 22.9.2023, and this court passed the following order:

Pursuant to the earlier order, a status report has been filed by third respondent and the relevant portions are extracted hereunder:

"It is submitted that on the same day (19.09.2023) the Tahsildar, Salem West also stated that the said area was ear marked and allotted for the Park and Playing area of Balaji Nagar. He further stated that one Raju s/o.Muthusamy Gounder (petitioner/complainant) has purchased it from one Balaji S/o.Ashokan and executed a sale deed. The residents of Balaji Nagar came to land and strongly objected to the fencing of it stating that the land was not agricultural land but, it was ear marked and allotted to form a park and play ground for Balaji Nagar. According to the petitioner/complainant he has purchased it from one Balaji as per the registered document No.2737 of 2019, dated 30.04.2019 of Sooramangalam Sub Register Office. The Balaji Nagar owner's association and Salem District Marxist Communist party members of the locality have sent many objection petitions in this regard.

It is submitted that in addition to the above, an enquiry by the Revenue Divisional Officer, Salem is pending in connection with the ownership of the land. Summon was served on both the parties to appear



W.P.No.26233 of 2023

WEB COPY

for enquiry on 21.09.2023 before the Revenue Divisional Officer, Salem. The records pertaining to ownership claims have been verified and further action could be taken after the findings of the enquiry. A request has been made to the Revenue Divisional Officer to inform the result at the earliest.

It is submitted that necessary protection was given to the petitioner/complainant as the orders of the Hon'ble High Court on 19.09.2023, but fencing could not be done due to the objection of the officials of Salem City Municipal Corporation and as well by the residents of Balaji Nagar claiming that the land in question was earmarked as Park and play ground as per the site plan of Balaji Nagar. The petitioner/complainant who was all along present at the site on 19.09.2023 was explained about the situation and he has stated he would approach the appropriate forum to seek remedy.

It is submitted that there is a dispute pending before the Revenue Divisional Officer, Salem over the claim by the ownership of land by the petitioner/complainant and the Salem City Municipal Corporation, at present police has to wait for the result in considering the request of the petitioner for fencing his agricultural land."

Post this case under the same caption on 29.09.2023. If there is no substantial development from the side of the Salem Corporation by then, this Court will proceed further to insist for the police protection to be given to fence the property.

4.The writ petition was listed for hearing on 10.1.2024 and this court passed the following order:

When the matter was taken up for hearing, the learned standing counsel appearing on behalf of the Salem Corporation submitted that already an application has been moved to set aside the ex parte decree with a delay and the delay petition has been numbered as I.A.No.1 of 2023 in A.S.No.86 of 2011 and it is pending before the II Additional Sub



W.P.No.26233 of 2023

Court, Salem. The learned counsel further submitted that the petition is posted for hearing on 06.02.2024.

WEB COPY

2.The learned standing counsel further brought to the notice of this Court the order passed by the R.D.O, Salem through proceedings dated 04.12.2023, whereby the patta that stood in the name of the petitioner was cancelled.

3. In the considered view of this Court, there is already a Civil Court decree in favour of the petitioner. The condone delay petition is now posted on 06.02.2024. Hence, the petitioner is directed to immediately file a counter in the condone delay petition by serving an advance copy on the standing counsel for the Corporation. The learned II Additional Sub Court Judge, Salem directed to enquire the I.A.No.1 of 2023 on 06.02.2024. Orders shall be passed in the said I.A.No.1 of 2023 on or before 20.02.2024. It is made clear that the learned Judge shall pass orders on its own merits without being influenced by the order passed by the R.D.O., Salem, through proceedings dated 04.12.2023.

4.Post this case under the caption "for orders" on 26.02.2024.

5.When the matter was taken up for hearing today, it was brought to the notice of this Court that the condone delay petition that was filed by the Salem Corporation in I.A.No.1 of 2023, was dismissed by the II Additional Sub Court, Salem by an order dated 20.2.2024.

6.The learned Standing Counsel appearing on behalf of the Salem Corporation submitted that some more time is required for the Corporation to workout their



W.P.No.26233 of 2023

remedy, since the property that is sought to be fenced by the petitioner has been earmarked for park and play ground area.

7.In the considered view of this Court, there is already a decree passed in favour of the petitioner's vendor and the same is in force till today. The application filed by the Corporation to condone the delay was also dismissed by an order dated 20.2.2024. Hence, the respondent police will have to necessarily grant police protection in order to fence the property.

8.It is made clear that the order passed in this writ petition will not come in the way of Salem Corporation to workout their remedy in the manner known to law. The representation made by the petitioner shall be acted upon by the 2nd respondent and police protection shall be given for fencing the property.

9.This writ petition is disposed of in the above terms. No costs. Consequently, connected miscellaneous petition is closed.

26.02.2024

Index : Yes/No
Speaking Order/Non-Speaking Order
Neutral citation : Yes/No
KP



W.P.No.26233 of 2023

WEB COPY

To

- 1.The Commissioner of Police
Commissioner of Office, Line Medu
Salem City.
- 2.The Assistant Commissioner of Police
Suramangalam
Salem.
- 3.State rep.by
Inspector of Police
Suramangalam Police Station
Salem.
4. The Public Prosecutor,
High Court, Madras.



WEB COPY



W.P.No.26233 of 2023

N. ANAND VENKATESH., J

KP

W.P.No.26233 of 2023

26.02.2024