



WEB COPY



W.P.No.6717 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.04.2025

CORAM

THE HONOURABLE MR.JUSTICE **M.SUNDAR**

and

THE HONOURABLE MRS.JUSTICE **K.GOVINDARAJAN THILAKAVADI**

W.P.No.6717 of 2025

and

W.M.P. No.7373 of 2025 in W.P. No.6717 of 2025

A.C.R.Rajganesan

... Petitioner

Vs.

1.The District Collector,
Salem District,
Salem – 636 001.

2.The Commissioner,
Attur Municipality,
Salem – 636 102.

3.The Assistant Engineer,
TNEB South Attur Town,
Salem Circle, Salem District.

4.The Tahsildar,
Attur Taluk, Salem District.

5.The Town Surveyor,
Attur Municipality, Salem District.

6.The Superintendent of Police,
Salem District.

... Respondents



W.P.No.6717 of 2025

(R4 to R6 impleaded suo motu vide
order dated 26.02.2025 in W.P.No.6717
of 2025)

WEB COPY

Writ Petition filed under Article 226 of The Constitution of India
praying to issue a Writ of Certiorari to call for the records bearing
Na.Ka.No.3536/2024/E1 dated 10.02.025 issued by the second
respondent herein and quash the same.

For Petitioner : Mr.K.S.Viswanathan,
Senior Counsel
for Ms.T.Hemalatha

For Respondents : Mr.T.K.Saravanan,
Additional Government Pleader
for R1, R2, R4 and R5
Mr.I.Syed Sibghatulla,
Standing Counsel for R3
Mr.A.Gokulakrishnan,
Additional Public Prosecutor for R6

Ms.Poongkhulali,
Advocate Commissioner

ORDER

[Order of the Court was made by **M.SUNDAR, J.,**]

This order will now dispose of captioned main 'Writ
Petition' (hereinafter 'WP' for the sake of brevity) and captioned 'Writ
Miscellaneous Petition' (hereinafter 'WMP' for the sake of brevity)
thereat.

Page Nos.2/20



W.P.No.6717 of 2025

2. This order has to be read in conjunction with and in continuation of earlier proceedings made in the listing on 26.02.2025 which reads as follows:

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 26.02.2025

CORAM

THE HON'BLE MR.JUSTICE M.SUNDAR

and

THE HON'BLE MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI

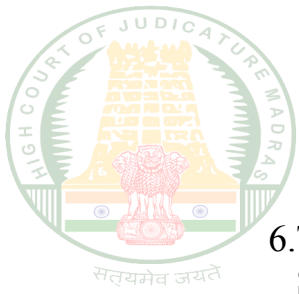
W.P.No.6717 of 2025
and W.M.P.No.7373 of 2025

A.C.R.Rajganesan

.. Petitioner

Vs.

- 1.The District Collector,
Salem District,
Salem-636 001.
- 2.The Commissioner,
Attur Municipality,
Salem - 636 102.
- 3.The Assistant Engineer,
TNEB South Attur Town,
Salem Circle, Salem District.
- 4.The Tahsildar,
Attur Taluk, Salem District.
- 5.The Town Surveyor,
Attur Municipality,
Salem District.



W.P.No.6717 of 2025

WEB COPY

6.The Superintendent of Police,
Salem District.

[R4, R5 and R6 suo motu impleaded
vide this order]

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari or any other appropriate writ, order or direction in the nature of a writ to call for the records bearing न.क.गण.3536/2024/1 dated 10.02.2025 issued by second respondent herein, quash the same and to pass such further or other orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case and thus render justice.

For Petitioner : Mr.K.S.Viswanathan, Senior Counsel
instructed by Ms.T.Hemalatha

For Respondents : Mr.T.K.Saravanan,
Additional Government Pleader
for RR1,2,4 and 5
Mr.E.Raj Thilak,
Additional Public Prosecutor for R6
Mr.I.Syed Sibghatulla,
Standing Counsel for R3

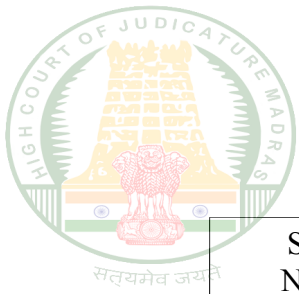
- - - -

ORDER

(Order of the Court was made by M.SUNDAR, J.)

Subject matter of captioned writ petition is 'land comprised in Town Survey No.72 of Block No.7, Ward F, Attur Municipality, Salem District' [hereinafter 'said land' for the sake of brevity, convenience and clarity].

2.Chronology of events is as follows:



W.P.No.6717 of 2025

Sl. No.	Date	Events/Description
1	30.12.2024	Notice from R2 {notice says, it is under Section 128 of 'the Tamil Nadu Urban Local Bodies Act, 1998 (Tamil Nadu Act 9 of 1999)' [hereinafter TNULB Act' for the sake of brevity] but it has not show caused writ petitioner / noticee}
2	08.01.2025	Writ petitioner sent representation in response to section 128 notice.
3	29.01.2025	Respondents have entered upon said land and marked boundaries.
4	31.01.2025	W.P.No.3742 of 2025 filed by writ petitioner assailing section 128 notice was disposed of by Division Bench permitting further representation to be made in response to section 128 notice and directing R2 to pass final order [obviously under proviso to section 128(1)(b)]
5	05.02.2025	Further representation sent by writ petitioner pursuant to WP order
6	10.02.2025	Impugned order passed by R2

3.Mr.K.S.Viswanathan, learned Senior Counsel instructed by Ms.T.Hemalatha, counsel on record for writ petitioner is before this Court. Learned Senior counsel submits that there is a 'Goshala' in said land and the Bovines are under imminent threat of being orphaned.

4.Issue notice. Mr.T.K.Saravanan, learned Additional Government Pleader accepts notice for RR1 and 2. Mr.I.Syed Sibghatulla, learned Standing Counsel for TANGEDCO accepts notice for R3.

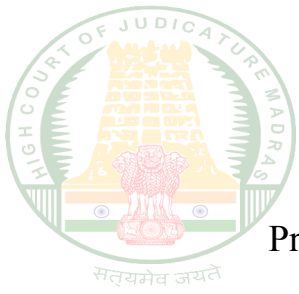


W.P.No.6717 of 2025

WEB COPY

5.Mr.T.K.Saravanan, learned Additional Government Pleader on instructions submits that 'Goshala' of writ petitioner is in S.No.65 and not in said land. Learned State counsel submits that said land is required for setting up a STP [Sewage Treatment Plant] which is very essential for local citizenry. Writ petitioner is present in Court. On instructions, learned senior counsel submits that 'Goshala' is situate in S.No.72 only and it is also submitted that if some breathing time is provided, writ petitioner will shift Bovines by finding a alternate place. In view of this fair submission and considering the facts and circumstances of the case, we deem it appropriate to appoint a Advocate Commissioner to ascertain if the 'Goshala' is in S.No.72 or in S.No.65. We appoint Ms.Poongkhulali, Advocate [Enrolment No.1373/2009], residing at M-1, Vadhula, No.18, Brindavan Street, Mylapore, Chennai-600 004, mobile No.9176568368, as Advocate Commissioner.

6.We request learned Advocate Commissioner to visit said land as well as S.No.65 and areas in and around and submit a report about where exactly the 'Goshala' is located and other details such as how many Cows are housed, etc., For this purpose, we suo motu implead (1) the Tahsildar, Attur Taluk, Salem District; (2) the Town Surveyor, Attur Municipality, Salem District and (3) the Superintendent of Police, Salem District as R4, R5 and R6. Mr.T.K.Saravanan, learned Additional Government Pleader accepts notice for R4 and R5 and Mr.Raj Thilak, learned Additional Public



W.P.No.6717 of 2025

Prosecutor, accepts notice for R6.

WEB COPY

7.R4 and R5 are directed to provide all assistance to Advocate Commissioner to carry out the aforementioned exercise. R6 shall depute requisite force to ensure that Advocate Commissioner is able to carry out the task smoothly. Learned Advocate Commissioner submits that she will visit the said land on 02.03.2025 (Sunday). We requisition a report from the Advocate Commissioner by 04.03.2025. We fix the remuneration and expenses for the Advocate commissioner at Rs.60,000/- (Rupees sixty thousand only) which the writ petitioner undertakes to pay forthwith. Learned Advocate Commissioner shall make her own arrangements for travel and stay, all of which will be included in this Rs.60,000/-. Depending on the work involved, if necessary this Court may order additional remuneration.

8.List on 05.03.2025. The impugned order shall be kept in abeyance between today and the next listing.

(M.S., J.) (K.G.T., J.)
26.02.2025 '

3. Aforereferred 26.02.2025 proceedings/orders shall now be



W.P.No.6717 of 2025

read as an integral part and parcel of this order. This also means that the short forms, abbreviations and short references used in the 26.02.2025 proceedings/orders shall continue to be used in the instant order also.

4. Post 26.02.2025 proceedings/orders, the following happened/emerged:

4.1 learned Advocate Commissioner visited the site on 02.03.2025, in the presence of both sides, after discussions, the area was surveyed photographs were taken. This exercise commenced at 10.15 a.m. and concluded at 3.30 p.m.;

4.2 Learned Advocate Commissioner has placed before us a report dated 18.03.2025 together with annexures;

4.3 Both sides i.e., writ petitioner as well as



WEB COPY



W.P.No.6717 of 2025

respondents say that they have no objection to the Advocate Commissioner's report. In other words, both sides accept the Advocate Commissioner's report;

4.4 There are 15 adults as regards the bovines and 8 heifers ;

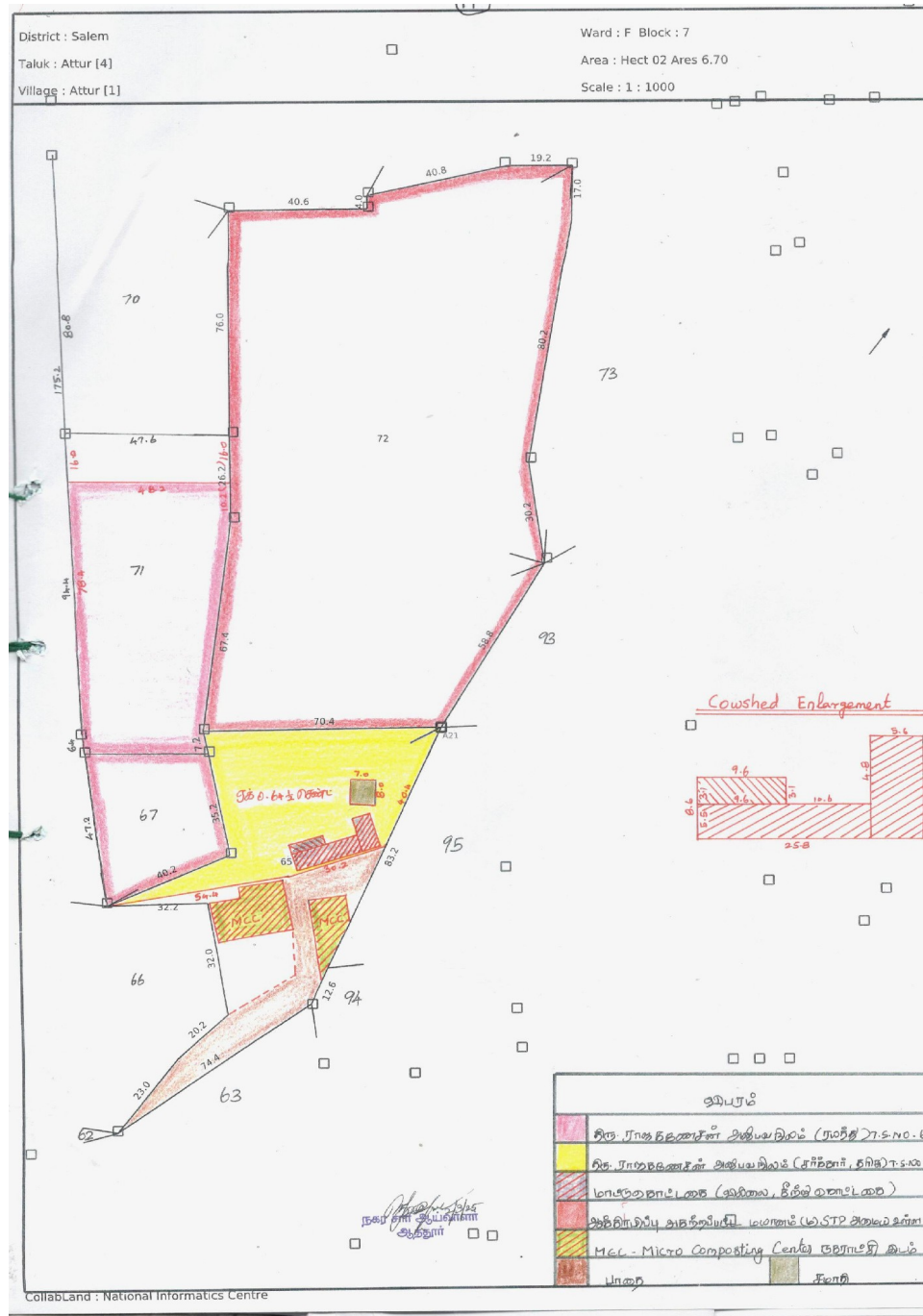
4.5 There is no commercial activity i.e., dairy products are not being sold;

4.6 A scanned reproduction of the sketch placed before us by the learned Advocate Commissioner is as follows:



W.P.No.6717 of 2025

WEB COPY





W.P.No.6717 of 2025

WEB COPY

4.7 Both sides accept the above to be a correct and accurate depiction of the topograph. This sketch shall be referred to as 'said sketch' and this will form basis for the order which we are now making;

4.8 Electricity and water connections (source located in Survey No.72) which have admittedly been disconnected shall be reconnected forthwith; We are only saying status quo ante with regard to electricity connection and drawing of water but all other questions in this regard are left open for both sides;

4.9 Survey No.72 admeasures 4 acres 10 cents (4.10 acres in all). From and out of this, 3 acres entirely on the northern side shall be handed over by writ petitioner/taken over by R2 forthwith. The remaining 1.10 acres i.e., 1 acre and 10 cents on the southern side abutting Survey No.65 will be available for the writ petitioner for the bovines to graze till 31.10.2025;

4.10 In the three acres in Survey No.72 in northern



W.P.No.6717 of 2025

WEB COPY

side, the respondents can commence STP constructions activities forthwith;

4.11 Survey No.65 admeasuring 64 ½ cents which is also Government land and now being used by the writ petitioner can be continued to be used by the writ petitioner till 31.10.2025 by which time the writ petitioner shall relocate the bovines;

4.12 As regards the writ petitioner's access to Survey Nos. 71 and 67 which are patta lands of the writ petitioner, the same is inter-alia via Survey No.65, writ petitioner shall make an application to R1 inter-alia in compliance with G.O.(Ms) No.201 Revenue and Disaster Management Department, Land Disposal Wing, LD3(1) Section dated 10.05.2022 within a fortnight from today i.e., on or before 15.04.2025;

4.13 The above mentioned application shall be decided by the State as expeditiously as the business of authorities concerned would permit i.e., on or before 31.07.2025;



W.P.No.6717 of 2025

WEB COPY

4.14 If access is granted, the writ petitioner shall handover Survey No.65 also entirely to the State by 31.10.2025;

4.15 If the access is not granted, it will be open to the writ petitioner to assail the same and pursue other remedies. Writ petitioner will not be bound by 31.10.2025 deadline as regards Survey No.65 in such a scenario. Equally State can also commence removal of encroachments proceedings qua Survey No.65. All questions are left open and all rights and contentions of both sides are preserved;

4.16 As regards 1.10 acres on the southern side of Survey No.72 in which bovines are permitted to graze, the same shall also be handed over by writ petitioner/taken over by R2 by 31.10.2025;

4.17 With regard to the above, writ petitioner has filed an affidavit of undertaking dated 01.04.2025 and a scanned reproduction of the same is as follows:



W.P.No.6717 of 2025

WEB COPY

**IN THE HIGH COURT OF JUDICATURE AT MADRAS
(Special Original Jurisdiction)**

W.P.No. 6717 of 2025

Mr.A.C.R.Rajganesan
S/o. Rajuudayar
D.No.572, Kamarajanar Road,
Attur, Salem-636 102

Versus

...Petitioner

1. The District Collector
Salem District
Salem - 636 001.
2. The Commissioner
Attur Municipality
Salem - 636 102.
3. The Assistant Engineer
TNEB South Attur Town
Salem Circle
Salem District

...Respondents

AFFIDAVIT OF A.C.R.RAJGANESAN

I, A.C.R.Rajganesan, Son of Raju udayar, aged about 69 years,
D.No.572, Kamarajanar Road, Attur, Salem-636 102, now
temporarily come down to Chennai, do hereby solemnly affirm and
sincerely state as follows:

Page No.1
No. of Corrnrs:



WEB COPY



W.P.No.6717 of 2025

2

1. I am the Petitioner herein and as such I am well acquainted with the facts of the case.
2. It is submitted that during the course of the hearing of the above writ petition, the petitioner has represented before this Hon'ble Court through his counsel that if some reasonable time is granted, the petitioner would be in a position to vacate and handover possession of the property in his occupation to the respondents.
3. The petitioner therefore hereby submits this solemn undertaking that the petitioner would vacate and deliver vacant possession of the lands in his occupation in T.S.No.72 as well as T.S.No.65 situate in Ward F, Block 7, Attur Municipality, Salem District on or before 31.10.2025. The petitioner undertakes to make alternative arrangements to provide shelter and fodder to the cows which are presently grazing in that area and also undertakes to remove the cowshed and other arrangements presently utilized for taking care of the cows.
4. In other words, the petitioner would remove all his belongings and vacate and hand over possession of the entire extent of land in his occupation in T.S.No.72 and T.S.No.65 immediately upon orders being passed by this Hon'ble court in the present writ petition except the area that would be permitted by this Hon'ble Court to be in the possession of the petitioner till 31.10.2025

Page No.2
No. of Corrnrs:



WEB COPY



W.P.No.6717 of 2025

3

5. The petitioner states that the electricity connection which was utilized for drawing water from the well for the purpose of storing the same in the water tank for the benefit of the cows was disconnected during the course of the proceedings. It is prayed that the same may be restored till the time granted for vacating the premises by the petitioner.
6. The petitioner further prays that this Hon'ble Court may consider the area of 1 Acre or thereabouts that is adjoining T.S.No.65 and falling in T.S.No.72 to be utilized by the petitioner during the time granted. It is further submitted that after the petitioner vacates the premises, the respondent authorities may provide access to the petitioner's patta lands at T.S.No.67 and 71.

For the reasons stated above, it is prayed that this Hon'ble Court may be pleased to record this affidavit of undertaking and pass suitable orders in the writ petition and thus render justice.

Solemnly affirmed at Chennai on
this the 1st day of April 2025
and signed his name in my presence.

}

BEFORE ME,

M. S. Raju 16/4/25

ADVOCATE: CHENNAI

M. N. K. Raju

136, Thimban chetty St

Ch-1

Page No.3
No. of Corrnrs:



W.P.No.6717 of 2025

WEB COPY

4.18 *vide paragraph 7 of our earlier proceedings/orders dated 26.02.2025, we had fixed Rs.60,000/- as remuneration and expenses for the learned Advocate Commissioner. It is confirmed that this has been paid to the learned Advocate Commissioner by the writ petitioner. Considering the nature of the work involved, travel, report that has been placed before us together with annexures and the assistance provided by the learned Advocate Commissioner in the hearings, we deem it appropriate to fix final remuneration and expenses of Rs.30,000/-, which sum shall be paid to the learned Advocate Commissioner by the writ petitioner within one week from today i.e., on or before 08.04.2025.*

5. Before we conclude, it is made clear that this order has been made considering the peculiar facts and circumstances of the case and therefore, the same shall not serve as a precedent in all and every matter of removal of encroachment.



W.P.No.6717 of 2025

WEB COPY

6. This Court places on record its appreciation for the good work done by the learned Advocate Commissioner and the able assistance rendered by the learned Advocate Commissioner to the Court in the hearings.

7. Captioned WP is disposed of in the aforesaid manner. Consequently, captioned WMP thereat is disposed of as closed. There shall be no order as to costs.

(M.S.,J.) (K.G.T.,J.)
01.04.2025

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

To

1.The District Collector,
Salem District,
Salem – 636 001.

2.The Commissioner,
Attur Municipality,
Salem – 636 102.

Page Nos.18/20



W.P.No.6717 of 2025

WEB COPY

3.The Assistant Engineer,
TNEB South Attur Town,
Salem Circle, Salem District.

4.The Tahsildar,
Attur Taluk, Salem District.

5.The Town Surveyor,
Attur Municipality, Salem District.

6.The Superintendent of Police,
Salem District.



WEB COPY



W.P.No.6717 of 2025

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

mmi

W.P.No.6717 of 2025

01.04.2025

Page Nos.20/20