



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11-12-2025

WEB COPY

CORAM

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

WP NO. 18903 OF 2024

and

WMP No. 26268 of 2025, WMP NO. 20757 OF 2024, WMP NO. 20758 OF 2024

WP No. 18903 of 2024

1. R.Sundaram

S/o.Late.Rangasamy Gounder, No.13,
Subbu Reddiyar Lane, Gangavalli Post
And Taluk, Salem District-636 105

2.S.Jagadambal

W/o.R.Sundaram, No.13, Subbu
Reddiyar Lane, Gangavalli Post And
Taluk, Salem District-636 105

3.H.Amanullah

S/o.Late.A.Hidhayadullah,
No.8/119,veeraganur Main Raod,
Anayampatti Post, Gangavalli Taluk,
Salem District-636105

4.A.Mohammed Hanif,

S/o.Late.Abdul Rahim, No60-
a1,gangavalli Post And Taluk, Salem
District-636 105

5.ASINA

W/o.Mohammed Hanif, No.60-
a1,gangavalli Post And Taluk, Salem
District-636 105

6.A.Akbarali

S/o.Late.Abdul Wahid, No.24/1-3
Veeraganur Main Raod, Gangavalli
Post And Taluk, Salem District-636 105

7.A.Abdul Kadhar



S/o.Late.Abdul Rahim, No.1/166-2
Attur Main Road, Gangavalli Post And
Taluk, Salem District-636 105

WEB COPY

Petitioner(s)

Vs

1. The District Collector
O/o.The District Collector, Salem
District, Salem-636 001

2.The Director
O/o.THE DIRECTORATE OF TOWN
PANCHAYAT,S, 7TH AND 8TH
FLOOR, URBAN ADMINISTRATIVE
OFFICE COMPLEX, RAJA
ANNAMALAIPURAM,
CHENNAI-600 028

3.The Tahsildar
Gangavalli Taluk, Gangavalli Post,
Salem District-636 105

4.The Executive Officer
Gangavalli Town Panchyat,
Gangavalli, Salem District-636 105

5.A.R.Constructions
Rep By Mr.A.Anand, Golden Nagar,
Naduvalur Post, Gangavalli Taluk,
Salem District-636 105

Respondent(s)

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India
praying for a writ of certiorari calling for the records relating to
Roc.No.237/2023 dated 28.12.2023 on the file of 4th respondent herein and
quash the same



For Petitioner(s): Mr.J.Shanmuga Sundara Babu

For Respondent(s): Dr.T.Seenivasan
Special Government Pleader
For R2
Mrs.R.Anitha
Special Government Pleader For
R4
Mr.Naveenkumar,
Government Advocate for R1
and R3
Mr.Pon Balaji.P
for R5

ORDER

The petitioner challenges the proceedings of the fourth respondent granting a contract for providing a “Fl;il” in Ward No.1 Survey No.17 of Gangavalli Town Panchayat, Salem District, on 28.12.2023.

2. The case of the petitioners is that the property in Survey No.17 of Gangavalli Town Panchayat, measuring an extent of 4.95 acres, belonged to one R.V.Arumugam. R.V.Arumugam came by the property on account of a patta granted by the then District Collector of Salem, in the year 1950. After enjoying the property for over a period of 11 years, the said Arumugam sold the property to one Kadhar Basha Sahib by way of a sale deed dated 30.03.1961. Kadhar Basha Sahib, in turn, sold the property to one Krishnasamy Reddiar on 02.06.1965. The said Krishnasamy Reddiar appointed the first petitioner as his Power Agent on 11.03.1996. The Power Agent, in turn, alienated the property in favour of four persons namely Mr.Balasubramanian, Mrs.Jagadambal,



Mr.Mohammed Hanif and Mrs.Saroja on 12.08.1996 and 16.08.1996.

WEB COPY

3. The said Balasubramanian, after having secured title to the said property, registered a gift deed in favour of Gangavalli Town Panchayat for certain extents of land. Thereafter, the aforesaid four persons, appointed one Sengoda Gounder as their Power Agent with an authority to alienate the same. Mr.Sengoda Gounder sold the property to the Writ Petitioners by way of registered documents on 31.03.1997. Mr.Balasubramanian, himself alienated the property in favour the third and sixth petitioners through several documents.

4. The petitioners, apart from the petitioners 3 and 6, approached the Revenue Authorities and had the revenue records mutated in their favour. After these works have been carried out, the Gangavalli Town Panchayat approached the District Munsif Court, Athur, in O.S.No.265 of 1998. In the said suit, the District Collector, Salem and Tahsildar, Gangavalli, had been impleaded as defendants 1 and 2 and the purchasers of the property were impleaded as defendants 3 to 15.

5. The plea of Gangavalli Town Panchayat was that, the property had been entrusted to the Panchayat by the District Collector, Salem, in 1961 and 1962. The purpose of alienation was to create a pond for drinking water supply for the cattle reared in the area. The Town Panchayat conceded to the fact that



the defendants 3 to 15 therein, had taken possession of the property, applied for house site permission and also secured the same. They pleaded that when they approached the Revenue Authorities to initiate action, the authorities informed that as the defendants 3 to 15 had been benefited with pattas and hence, the same cannot be interfered with by them. Being left with no other alternative, the Town Panchayat passed a resolution on 07.08.1998, authorising the Chairman and Executive Officer of Gangavalli Town Panchayat, to present the suit. On the basis of such permission, the Town Panchayat, presented the suit for declaration that the patta granted in favour of defendants 3 to 15, as illegal and not binding on the Town Panchayat and for recovery of possession from defendants 3 to 15 and for costs.

6. Pending suit, an application was filed by the Town Panchayat, seeking an order of interim injunction restraining the defendants 3 to 15 (some of whom are the writ petitioners herein), from putting up any construction in and over the aforesaid survey number. The learned trial Judge, dismissed the application, holding that the defendants 3 to 15 are having patta in their favour and consequently the relief of injunction sought for by the Town Panchayat is untenable. Aggrieved by the same, the Town Panchayat has preferred an appeal in C.M.A.No.2 of 2001 on the file of the learned Sub-Ordinate Judge, Athur.



7. Pending the aforesaid appeal, the defendants took out an application to reject the plaint alleging the valuation of the suit was improper. They filed the application under Order VII Rule 11 in I.A.No.1390/2001. This application was allowed by the learned District Munsif on 25.06.2003. Hence, the plaint stood rejected. As the substratum of the appeal, namely the pendency of the suit itself vanished, the appeal in C.M.A.No.2 of 2001 also came to be dismissed.

8. The Gangavalli Town Panchayat filed an appeal before the learned Sub-Ordinate Judge, against the order rejecting the plaint. Unfortunately, the appeal was out of time. Consequently, the Town Panchayat filed an application to condone the delay in preferring the appeal. That application came to be dismissed for default on 07.06.2004. No steps had been taken to restore the application. Consequently, the order of the learned District Munsif, rejecting the plaint, has become final.

9. The petitioners' plea that since they are the owners of the property, the impugned contract issued in favour of the fifth respondent, is untenable. According to them, since the property is under their possession and enjoyment, the Town Panchayat has no jurisdiction to issue the contract. Any attempt to execute the contract would result in their dispossession.



10. The petitioners further state that there was an another connected proceeding between them and the respondents. The Gangavalli Town Panchayat had approached the third respondent to reclassify the land from Patta to “Fl;il”. This was also ordered by the third respondent. Feeling aggrieved by the said reclassification, the petitioners approached this Court by way of a Writ Petition in W.P.No.11509 of 2005. By an order dated 27.02.2012, the order reclassifying the land, was set aside, since it was passed without notice to the petitioners therein. This Court, further directed the Tahsildar, Gangavalli Taluk, to decide the matter afresh, after issuing notice to the respective parties. It is the allegation of the petitioners that till date, no orders have been passed by the said authority. As the work order had been issued for the property under their occupation, they are before this Court.

11. This Court entertained the writ petition on 15.07.2024 and issued notice to the respondents. As an attempt was made by Gangavalli Town Panchayat to commence construction, the petitioners moved an application for an interim injunction pending disposal of the writ petition.

12. As the pleadings are completed, with the consent of both side counsels, I took up the main Writ Petition itself.



13. It is the stand of the Gangavalli Town Panchayat that Survey No.17 has been classified as “Fl;il”, in village records. They plead that Mr.Krishnaswamy Reddiar was a former Village Munsif of this village and had obtained a patta from the District Collector on 09.06.1950 under the “Freedom Fighter’s Land Assignment Scheme”. They plead that as the land had been transferred by Krishnaswamy Reddiar, in favour of third parties, in violation of the assignment conditions, the Government has resumed the land by way of an order on 13.09.1958 and had allotted the same in favour of the Town Panchayat.

14. The counter does not dispute the proceedings that have been set forth above. It points out that pursuant to the remarks passed by this Court in W.P.No.11509/2005, the Tahsildar conducted an enquiry and rejected the request for grant of Patta. It is further added that an appeal was preferred to the Revenue Divisional Officer, Athur, who confirmed the order rejecting the grant of patta. Aggrieved by the same, a Revision was preferred to the District Revenue Office, Salem, who, by an order dated 29.03.2023, dismissed the Revision.

15. The plea of Town Panchayat is, as the land in issue is a water body, and since it has been classified as Government Poromboke, the petitioners are not entitled to maintain the writ petition. On the aspect of tender, it is pleaded



that the development activities have to be taken with respect to “Fl;il” and consequently, the Town Panchayat approached the Director of Municipal Administration, with a proposal on 07.07.2023. The Director also allotted a sum of Rs.75,00,000/- to the Town Panchayat for the said development. After calling for a tender, the fifth respondent was appointed and work order has also been issued to him. Curiously enough, the counter affidavit concedes that the issue relating to the title, have to be worked out only before the Civil Court. The plea of the respondents is that, as the patta proceedings have ended against the writ petitioners, the Town Panchayat is entitled to issue a tender and ensure the development of “Fl;il”.

16. I heard Mr.J.Shanmuga Sundara Babu, learned counsel appearing for the petitioner, Ms.R.Anitha, the learned Additional Government Pleader appearing for the fourth respondent, Dr.T.Seenivasan, the learned Special Government Pleader for the second respondent, Mr.Naveen Kumar, the learned Government Advocate for R1 and R3 and Mr.Pon Balaji, the learned counsel, appearing for R5.

17. The facts have already been narrated in the aforesaid paragraphs and hence, I am not reiterating the same in this portion of the judgment.



18. The possession of the writ petitioners over the property in Survey No.17 of Gangavalli Town, Athur Taluk, Salem District, is not in dispute. In fact, in order to take possession of the property, the Gangavalli Town Panchayat had initiated a civil proceeding in O.S.No.265/1998 on 10.08.1988. Prayer No.'B' in the said suit was for recovery of possession. The contesting respondent had held out before the Civil Court that the Writ Petitioners and few others are in possession and enjoyment of the property and hence, the Town Panchayat is entitled to take possession. Had that suit been decreed and the Town Panchayat taken possession of the property, certainly, the Town Panchayat would be entitled to indulge in any activity it pleases. However, on account of the rejection of plaint and the confirmation of the said order by the learned Sub-Ordinate Judge, the records reveal that, as on today, the writ petitioners are in possession of the property.

19. On the issue of taking possession of a property, the principle of law had been settled, at least a 100 years ago, by the judgment of the Privy Council in *The Midnapur Zamindary Company Vs. Narayan Roy* reported in 20 Law Weekly 770 at 775. The board had declared a person in possession of a property, can be dispossessed only in the manner known to law. If that position prevails even for a private party, more so, it applies in the case of a State respondent. The Gangavalli Town Panchayat has rightly approached the Civil Court to take possession. Unfortunately, the suit was not prosecuted further. No record has



been produced to show possession has been taken from the petitioners in a manner known to law.

WEB COPY

20. As long as the petitioners are in possession of the property, the fourth respondent is not entitled to forcibly dispossess them. The act of calling tender to develop a property under the possession of the petitioners, is an indirect attempt by the fourth respondent to dispossess them from their settled possession. The sale deeds produced by the petitioners and as conceded in the counter affidavit, point out that Krishnaswamy Reddiar has alienated the property at least 60 years ago. Whether Krishnaswamy Reddiar had the right to alienate the property or not has to be decided by the Civil Court. The Gangavalli Town Panchayat, on its own, cannot decide that Krishnaswamy Reddiar has no right to execute the document and on that basis issue a tender and take possession of the property.

21. In the light of the above discussion, the writ petition succeeds and the impugned order is quashed. Needless to add, in terms of Order VII Rule 13 of Code of Civil Procedure, a rejection of plaint does not bar a plaintiff from filing a fresh suit on the same cause of action. It is always open to the Gangavalli Town Panchayat to take possession in the manner known to law. Till possession is taken in such a manner, the petitioner's possession cannot be interfered with.



22. In the result, the Writ Petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

WEB COPY

11-12-2025

Index:Yes/No

Speaking/Non-speaking order

Internet:Yes

Neutral Citation:Yes/No

bkn



To

1. The District Collector
O/o. The District Collector, Salem
District, Salem-636 001

2. The Director
O/o. THE DIRECTORATE OF TOWN
PANCHAYAT, S, 7TH AND 8TH
FLOOR, URBAN ADMINISTRATIVE
OFFICE COMPLEX, RAJA
ANNAMALAIPURAM,
CHENNAI-600 028

3. The Tahsildar
Gangavalli Taluk, Gangavalli Post,
Salem District-636 105

4. The Executive Officer
Gangavalli Town Panchyat,
Gangavalli, Salem District-636 105

5. A.R. Constructions
Rep By Mr. A. Anand, Golden Nagar,
Naduvalur Post, Gangavalli Taluk,
Salem District-636 105



WEB COPY

WP No. 18903 of 2024



V.LAKSHMINARAYANAN J.

bkn

WP NO. 18903 OF 2024

11-12-2025