



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.02.2025

WEB COPY

CORAM :

THE HONOURABLE **MR.JUSTICE N.ANAND VENKATESH**

Writ Petition Nos.127 and 2916 of 2023
and WMP Nos.117 & 3017 of 2023

W.P.No.127 of 2023

S.Kandasamy

.... Petitioner

-Vs-

- 1.The District Collector
Salem District at Salem.
- 2.The Superintendent of Police
Salem District at Salem.
- 3.The District Revenue Officer
Salem District at Salem.
- 4.The Revenue Divisional Officer
Sangagiri
Salem District.
- 5.The Tahsildar
Edapadi Taluk
Edapadi
Salem District.
- 6.The Inspector of Police
Konganapuram Police Station
Konganapuram
Salem District.



7.The Assistant Engineer
(Operation and Maintenance)
TANGEDCO, Sannantheri
Salem District.

8.The Village Administrative Officer
Katchupalli Village
Edapadi Taluk
Salem District.

9.Sundaram

10.Valeeswaran

..Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Declaration, to declare the eviction order passed by the 4th respondent in Na.Ka.No. 2915 dated 14.11.2022 eviction notice of 5th Respondent in Na.Ka.No. 4470 / 2022 / A2 dated 12.12.2022 and the eviction carried out by the 4th 5th and 6th Respondents by demolishing the dwelling house to the petitioner in Door No. 8 / 102- New No. 9 / 298 S. No.408 / 1L2 Katchupalli village and also the agricultural lands comprised in S. No. 408/H2, 408/1K22, 408/1L2, 408/1M1, 408/1N1, 408/101, 408/1A1, 408/1B1, 408/1F1, 408/1G1, 408/1H3, 408/1K1, 408/1L1, 406/1N2, 406/13A1, 406/13B1 Katchupalli Village, Edapadi Taluk, Salem District totally admeasuring 1 are 87 cents on 16.12.2022 as illegal and unconstitutional and consequently direct the respondents 1` to 6 to restore the possession of the said properties in favour of the petitioner with cost and compensation

(Prayer amended vide order dt.14.02.2023 made in WMP.2677/2023 in WP.127/2023 by RSKJ)



W.P.No.2916 of 2023

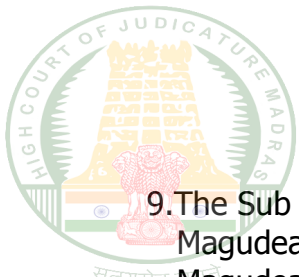


WEB COPY S.Kandasamy

.... Petitioner

-Vs-

- 1.The District Collector
Salem District at Salem.
- 2.The Superintendent of Police
Salem District at Salem.
- 3.The District Revenue Officer
Salem District at Salem.
- 4.The Revenue Divisional Officer
Sangagiri
Salem District.
- 5.The Tahsilkdar
Edapadi Taluk
Edapadi
Salem District.
- 6.The Inspector of Police
Konganapuram Police Station
Konganapuram
Salem District.
- 7.The Assistant Engineer
(Operation and Maintenance)
TANGEDCO, Sannantheri
Salem District.
- 8.The Village Administrative Officer
Katchupalli Village
Edapadi Taluk
Salem District.



9.The Sub Registrar
Magudeanchevadi
Magudeanchevadi Post
Sangagiri Taluk
Salem.

10.Sundaram

11.Valeeswaran

..Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of forbearing the 9th respondent from registering any sale deed presented by the 10th and 11th respondent in respect of petitioner property bearing S.No.408/1H2, 408/1K2, 408/1L2, 408/1M1, 408/1N1, 408/1O1, 408/1A1, 408/1B1, 408/1F1, 408/1G1, 408/1H3, 408/1K1, 408/1L1, 408/1N2, 408/13A1 , 408/13B1, Katchupalli Village, Edapadi Taluk, Salem District totally admeasuring 1 acre 87 cents.

For Petitioner (Both WPs)	:	Mr.C.K.M.Appaji
For Respondents (Both WPs)	:	Mr.U.Baranidharan Special Government Pleader for R1 to R6 & R8 for R9 (in WP.No.2916 of 2023) Mr.C.Prakasam for R9 & R10 for R11 (in W.P.No.2911 of 2023) Mr.L.Jaivenkatesh for R7



WEB COPY

COMMON ORDER

The issue involved in both these writ petitions are common and hence it is taken up together, heard and disposed of through this common order.

2.WP.No.127 of 2023, has been filed for declaring the eviction order passed by the 4th respondent through proceedings dated 14.11.2022 and the eviction notice issued by the 5th respondent dated 12.12.2022 and the eviction that was carried out by the 4th, 5th and 6th respondents by demolishing the dwelling house and destroying the agricultural lands, as illegal and unconstitutional and for a consequential direction to the respondents 1 to 6, to restore the possession of the property to the petitioner.

3.WP.No.2916 of 2023 has been filed to forbear the Sub Registrar from entertaining any documents presented for registration by the 10th and 11th respondents touching upon the subject properties.

4.Heard learned counsel for the petitioner, the learned Special Government Pleader appearing on behalf of the respondents R1 to R6, R8 & R9 and the learned counsel for R7, R10 & R11.



WEB COPY

5.The case of the petitioner is that he is the absolute owner of the subject property by virtue of a registered partition deed dated 12.10.1990. The petitioner approached a local money lender seeking for loan and in the pretext of creating a mortgage, the finance company obtained a sale agreement in their favour. According to the petitioner, the petitioner and his family members were coerced and their signatures were obtained in the sale deed and the sale deed was registered on 06.12.2007 as document No.3996/2007. Likewise, two more sale deeds were also executed. However, the petitioner claims that he and his family members are in possession and enjoyment of the subject property.

6.The 9th and 10th respondents filed a suit in OS.No235 of 2012, before the District Munsif Court, Sangagiri seeking for the relief of permanent injunction. This suit was subsequently transferred to the Sub Court, Sangagiri and renumbered as OS.No.201 of 2013. During the pendency of the suit, the relief was amended and they sought for mandatory injunction directing the petitioner and the family members to hand over possession of the property in favour of 9th and 10th respondents.

7.The petitioner and his family members also filed a suit in O.S.No.81 of 2013 for the relief of declaration and for permanent injunction to declare the sale agreement and the sale deed as null and void. Both the suits came to be dismissed by the Sub Court, Sangiri through judgement and decree dated 11.12.2019. As



against the dismissal of the suit in OS.No.81 of 2013, the petitioner and his family members filed AS.No.50 of 2022, before the Principal District Judge, Salem. Similarly, 9th and 10th respondents also filed an appeal in AS.No.83 of 2020 challenging the dismissal of the suit in OS.No.201 of 2013.

8. When the appeal was pending, the 9th respondent preferred a complaint dated 12.9.2022, before the 5th and 6th respondents stating that their possession and enjoyment was disturbed by the petitioner. The 9th respondent also sought for police protection. Based on this representation, CrI.OP.No.19676 of 2021, was filed before this Court to direct the Superintendent of Police and Inspector of Police to grant police protection. This petition was disposed of by an order dated 09.06.2022, by directing the police to enquire into the matter and to pass orders within a period of four weeks.

9. Pursuant to the above order, the matter seems to have been placed before the 4th respondent and the 4th respondent issued notice to both the parties and conducted an enquiry and through the impugned proceedings dated 14.11.2022, the 4th respondent had virtually directed the petitioner to be evicted from the property and for the removal of the superstructure and the Tahsildar was directed to take police protection in this regard. The Tahsildar in turn made a communication to the police on 26.11.2022 and sought for police protection to carry out the order passed by the RDO. Thereafter, the petitioner was evicted from the property and it is under these

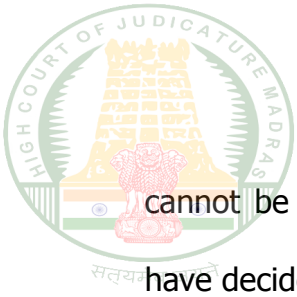


circumstances, the present writ petitions came to be filed before this Court.

WEB COPY

10. In the considered view of this Court, the order passed by the 4th respondent is a clear abuse of process of law. The 4th respondent was aware of the fact that the appeals filed by both parties were pending before the competent Civil Court. In spite of the same, the 4th respondent acted as if he is a Civil Court who is determining the rights of the parties and went to the extent of directing the Tahsildar to evict the petitioner from the property. This order was acted upon by the Tahsildar and with the help of the police the possession was handed over to the 9th and 10th respondents.

11. An innocuous order that was passed by this Court in Crl.OP.No.19676 of 2021, dated 09.06.2022 was misused by all the authorities and they are conveniently showing their finger at this Court as if this Court had issued a positive direction to evict the petitioner. This Court had merely directed the police to deal with the complaint and to take a decision and such innocuous directing was completely taken advantage and the RDO has proceeded to pass the order directing the eviction of the petitioner from the subject property. All this was done when the civil proceedings were pending before the Court. This clearly shows that the revenue authorities and the police came together and after fully knowing that they have no powers, have taken advantage of the order passed in Crl.OP.No.19676 of 2021 and have acted in an illegal manner. Such action on the part of the revenue authorities and the police



cannot be condoned and it is clearly an overreach on the part of the authorities to have decided a private dispute between the petitioner and the private respondents.

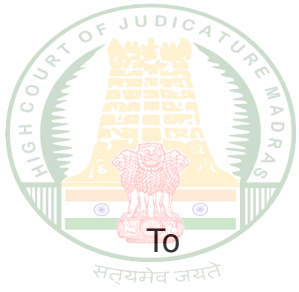
WEB COPY

12.In the light of the above discussion, the relief as sought for in WP.No.127 of 2023 is granted and this writ petition is allowed. Similarly, the relief sought for in WP.No.2916 of 2023, is also granted and the said writ petition also stands allowed. Appropriate proceedings for restoring the possession of the property shall be carried out by the District Collector and the Superintendent of Police viz., the 1st and 2nd respondents, within a period of four weeks from the date of receipt of copy of the order. It is made clear that this Court did not go into the rights of the respective parties and it is left open to both the parties to raise all the grounds before the Civil Court where the appeals are pending.

13.In the result, both the writ petitions are allowed in the above terms. No costs. Consequently, connected miscellaneous petitions are closed.

20.02.2025

Index : Yes/No
NCS : Yes/No
KP



To

- 1.The District Collector
Salem District at Salem.
- 2.The Superintendent of Police
Salem District at Salem.
- 3.The District Revenue Officer
Salem District at Salem.
- 4.The Revenue Divisional Officer
Sangagiri
Salem District.
- 5.The Tahsildar
Edapadi Taluk
Edapadi
Salem District.
- 6.The Inspector of Police
Konganapuram Police Station
Konganapuram
Salem District.
- 7.The Assistant Engineer
(Operation and Maintenance)
TANGEDCO, Sannantheri
Salem District.
- 8.The Village Administrative Officer
Katchupalli Village
Edapadi Taluk
Salem District.
- 9.The Sub Registrar
Magudeanchevadi
Magudeanchevadi Post
Sangagiri Taluk
Salem.



WEB COPY



N.ANAND VENKATESH, J.
KP

Writ Petition Nos.127 and 2916 of 2023

20.02.2025