

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09-03-2015

CORAM

THE HONOURABLE MR.JUSTICE SATISH K.AGNIHOTRI
AND
THE HONOURABLE MR.JUSTICE M.VENUGOPAL

WRIT PETITION No.31907 of 2014

N.Karthekeyan

.. Petitioner

vs

- 1.The Tahsildar
Taluk Office
Kalavai
 - 2.The Divisional Revenue Officer
Office of Divisional Revenue
Ranipet
 - 3.The District Collector
O/o. The District Collectorate
Sathuvachari, Vellore.
 - 4.The Superintendent of Police
O/o. Superintendent of Police
Vellore District
 - 5.B.Kumaravelu
(R5 impleaded as per order
dated 17.12.2014 in M.P.No.1/2014)
- .. Respondents

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus directing the third respondent to take appropriate action to remove the obstruction based on the first respondent's letter in Na.Ka.A5.9379/2004 dated 7.1.2005, to the third respondent with the aid of the fourth respondent.

For Petitioner : Mr.S.Mahaveer Sivaji
For Respondents : Mr.P.S.Sivashanmugasundaram
Special Government Pleader
for RR1 to 4
Mr.K.Mohanamurali for R5

ORDER

(Order of the Court was made by SATISH K.AGNIHOTRI, J.)

The petitioner, claiming to be a resident of the adjacent area in question at Mettu Sengunthur Street, Kalavai, Arcot Taluk, Vellore District, has come with the instant writ petition, seeking a direction to the third respondent, viz., the Collector, Vellore District, to take suitable action to remove the obstruction, based on the letter dated 07.01.2005 addressed by the first respondent to the third respondent, with the aid of the fourth respondent.

2. Notice was ordered by this Court on 17.12.2014. Pursuant thereto, the Tahsildar, Taluk Office, Kalavai, had filed a counter affidavit indicating as under:-

"3) It is humbly submitted that the writ petitioner herein submitted a petition on 6.12.2004 to the third respondent herein and sought prayer to remove the wall constructed in New S.No.12/63 and Old S.No.381/7. The first respondent herein conducted enquiry in the submitted petition dated 6.12.2004. In the enquiry it was found by the first respondent that one Mr.Kumaravel who is the fifth respondent herein constructed the wall in S.No.12/63, Old S.No.381/7 and in Revenue Record 'A' Register and Adangal etc., the said place marked as Poosthuthi Street (the Word Poosthuthi means approved by authority has to be used by public as publically). The Enquiry report also forwarded to the third respondent in Na.Ka.9379/2004 dated 7.1.2005. The revenue officials also visited and directed to remove the construction wall. The said Kumaravel has reported that he had filed original suit No.221/2004 before District Munsiff Court, Arcot, Vellore District."

3. The learned Counsel appearing for the fifth respondent, also submits that the property in question is the subject matter of the pending suit in O.S.No.221/2004, on the file of the Court of District Munsif, Arcot, Vellore District.

4. In view of the foregoing, admittedly, the facts are in dispute. The learned Counsel appearing for the petitioner, had pointed out certain documents to indicate that the land in question is a Government land as per revenue records. Be that as it may, once the dispute has been raised in respect of the nature of the property, it is not proper for us to consider and decide the same in a summary proceedings under Article 226 of the Constitution of India, particularly, when the dispute itself is pending consideration before the competent Civil Court. However, having regard to the facts situation that the suit is pending since 2004, we deem it fit and proper to direct the learned District Munsif, Arcot, Vellore District, to consider and decide the pending suit in O.S.No.221/2004 within a period of four months from the date of receipt of a copy of this order, in accordance with law and on it's own merits. All the parties are at liberty to raise all the issues as advised and permissible under law before the said forum.

5. The writ petition accordingly, stands disposed of. No costs.

Sd/-
Deputy Registrar
Dated:13.3.15

To:

1.The Tahsildar
Taluk Office
Kalavai

2.The Divisional Revenue Officer
Office of Divisional Revenue
Ranipet

3.The District Collector
O/o. The District Collectorate
Sathuvachari, Vellore.

4.The Superintendent of Police
O/o. Superintendent of Police
Vellore District

+1 cc to Mr.S.Mahaveer Shivaji, Advocate,SR.13226

+1 cc toMr.K.Mohanamurali, Advocate,SR.12957

+1 cc to Government Pleader,SR.13246.

Copy to:
Thje District Munsif,
Arcot, Vellore.

nm(co)
krd 17/3

W.P.No.31907 of 2014



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