

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.01.2015

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.22290 of 2014
and
M.P. Nos.1 and 3 of 2014

C.Senthilkumar

...Petitioner

vs

1. The District Collector
Erode District, Erode.
2. The President
Koorapalayam Panchayat
Erode District.
3. The Block Development Officer
(Village Panchayat)
Panchayat Union Office
Erode Town, Erode District.
4. The Revenue Tahsildar
Erode Town and Taluk
Erode District.
5. The District Revenue Officer
Erode District, Erode.
6. K.R.Bharathi
7. K.C.Jagadeeswaran
8. S.Periyasamy
9. N.Murugesh
10. S.Govindasamy

...Respondents

[Respondents 6 to 10 are impleaded
as per order of this Court dated 22.01.2015
passed in M.P.No.2/2014 in W.P.No.22290/2014[TSSJ]

Writ petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus forbearing the respondents, their men, agents or subordinates from in any manner interfering with the peaceful possession and enjoyment of the

petitioner's property at R.Survey No.24/1 (part) and 24/3 (part) measuring an extent of 2.30 acres at Koorapalayam Village, Erode Taluk and District.

For Petitioner : Mr.M.Baskar

For Respondents : Mr.P.Sanjay Gandhi
Additional Government Pleader
for RR1 to 5
Mr.C.Prakasam for RR6 to 10

ORDER

Heard Mr.M.Baskar, learned counsel for the petitioner, Mr.P.Sanjay Gandhi, learned Additional Government Pleader appearing on behalf of respondents 1 to 5 and Mr.C.Prakasam, learned counsel appearing for respondents 6 to 10.

2. The petitioner in this writ petition seeks for the issuance of a writ of mandamus to forbear the official respondents from in any manner interfering with the peaceful possession and enjoyment of the petitioner's property in R.Survey No.24/1 (part) and 24/3 (part) measuring an extent of 2.30 acres at Koorapalayam Village, Erode Taluk and District.

3. According to the petitioner, he has purchased the property in question vide registered document No.5895 of 2007 on the file of the Sub Registrar, Perundurai and the petitioner's vendor is one Mr.K.C.Vasu. The petitioner submits that he is a dhobi by profession and belongs to depressed class and his forefathers are living in the said village without any complaints.

4. The grievance of the petitioner is that when the third respondent took steps to lay a road in front of the petitioner's property based on the permission granted by the second respondent, the official respondents are attempting to encroach into a portion of the petitioner's property, which is abetting the road. Therefore, the petitioner submitted a representation and also lodged a complaint before the various authorities including the Hon'ble Chief Minister's Special Cell. Since there was no response for all the complaints, the petitioner has approached this Court by way of present writ petition.

5. Counter affidavits have been filed by the Tahsildar, Erode as well as the Block Development Officer, Erode District.

6. On a perusal of the counter affidavits filed, it is seen that the official respondents have stated in clear terms that they are not interfering with the petitioner's peaceful possession and

enjoyment of the property in S.F.No.24/1 (part) and 24/3 (part) for the execution of the road work and there is no personal motive against the petitioner. Further, it is stated that the development of the existing road in S.F.Nos.17/1, 22/1, 22/2, 23/1, 25/1, 25/3, 39/1 and 40/1 of Koorapalayam Village, Erode, is useful for the public and all the materials has been placed on the road and the road has to be formed under the THAI scheme during the financial year 2014-15.

7. Learned counsel for the petitioner submitted that though the petitioner would accept the undertaking given by the third respondent in his counter affidavit, nevertheless on the ground, there is encroachment and this has to be prevented. The further allegation made by the petitioner is that the impleaded parties, who are the owners of the land on the other side of the road have encroached a portion of the road and in order to maintain the road width, the third respondent is moving towards the petitioner's land.

8. In view of the above submission made by the learned counsel for the petitioner, the dispute that has to be looked into in this matter, is as to what will be the width of the road through its entire length and more particularly, in the area where it abets the petitioner's property as well as the properties of respondents 6 to 10. Therefore, as a first step, before laying the road, the third and fourth respondents shall ascertain the width of the road, which has been initially developed and measure the same by clearly demarcating the boundaries. While doing so, they also shall bear in mind the affidavit of undertaking given by the third respondent before this Court. It is needless to state that the road in question shall be formed, after measuring the same in the presence of the petitioners as well as respondents 6 to 10 and the President of the Village Panchayat, in order to avoid any future complaints. It is also made clear that the petitioner and the third respondent as well as the President of the Village Panchayat shall co-operate in the implementation of this order. The above direction shall be complied with by the third respondent within a period of two weeks from the date of receipt of a copy of this order.

9. With the above observation, this writ petition is disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

vj2

To

1. The District Collector
Erode District, Erode.
2. The President
Koorapalayam Panchayat
Erode District.
3. The Block Development Officer
(Village Panchayat)
Panchayat Union Office
Erode Town, Erode District.
4. The Revenue Tahsildar
Erode Town and Taluk
Erode District.
5. The District Revenue Officer
Erode District, Erode.

1 CC to Mr.M.Baskar, Advocate SR.No. 3580

1 CC to the Government Pleader, SR.No. 3411

1 CC to Mr.C.Prakasam, Advocate SR.No.3524

WP.No.22290 of 2014

PSI (30.01.2015)

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