

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.11.2015

CORAM:

THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI
AND
THE HON'BLE DR.JUSTICE P. DEVADASS

W.P. No.28595 of 2015

G.C. Jain

...Petitioner

vs.

1 The Revenue Divisional Officer
Kancheepuram District
Kancheepuram

2 The Tahsildar
Sriperumbudur Taluk
Sriperumbudur
Kancheepuram District

3 The Block Development Officer
Sriperumbudur Panchayat Union
Sriperumbudur Taluk
Kancheepuram District

4 The President
Santhavellore Panchayat
Sriperumbudur Taluk
Kancheepuram District

5 Babu

...Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the respondents 1 to 4 to remove the compound wall put up at the School Street, Jain Nagar, Sunguvarchatram, Sriperumbudur Taluk, Kancheepuram District and direct the respondents 1 to 4 to lay road by considering the petitioner's representation dated 24.12.2014.

For petitioner

Mr. K.M. Balaji

For RR 1 & 2

Mrs. A. Srijayanthi
Special Government Pleader

For R3
For R4
For R5

Mr. N. Sakthivel, Govt. Advocate
Mr. K.G. Senthilkumar
Mr. M. Kamalahasan

ORDER

(delivered by SATISH K. AGNIHOTRI, J.)

With the consent of the learned counsel for the parties, the writ petition is taken up for final disposal.

2 This writ petition is filed seeking a writ of mandamus directing the respondents 1 to 4 to remove the compound wall put up at the School Street, Jain Nagar, Sunguvarchatram, Sriperumbudur Taluk, Kancheepuram District and to direct the respondents 1 to 4 to lay road by considering the petitioner's representation dated 24 December 2014.

3 Alleging that the fifth respondent has made encroachment in the aforesaid place by raising brick walls and digging up a canal, the petitioner has addressed a representation dated 24 December 2014 to the respondents 1 and 2. Inasmuch as the said authorities have not hearkened to the said representation, the petitioner has come up with the instant writ petition seeking the aforestated relief.

4 Pursuant to this Court's notice dated 11 September 2015, the fourth respondent-Panchayat has filed a counter affidavit dated 26 October 2015 stating that the dispute involved herein is the subject matter of O.S. No.279 of 1990, which has been decreed. The petitioner has come up with the instant writ petition suppressing the fact of decretal order of the said suit. Thus, this writ petition is nothing but an attempt to seek execution of the decree passed by the Trial Court. It is also contended that the appeal preferred thereagainst is under consideration.

5 The first respondent, viz., Revenue Divisional Officer, Kanchipuram District, in his counter affidavit dated 30 October 2015, has taken a clear stand that Santhavellore Panchayat Union School encroached the land in question and constructed a compound wall for the school. It is further contended that it is for the fourth respondent-Village Panchayat and the third respondent, viz., Block Development Officer, Sriperumbudur Panchayat Union, to remove the encroachment in accordance with law. The first respondent further submits that necessary police protection to remove the encroachment will be extended by the first respondent.

6 On consideration of the averments made in the writ petition as well as counter affidavits, as aforesaid, it appears that there is a dispute qua the encroachment and as such, the third respondent is directed to have a spot inspection of the place in question and take necessary steps for removal of the encroachment, if, on inspection, it is found that there is an encroachment, in accordance with law, after affording an opportunity of hearing to the alleged encroachers. The entire exercise shall be completed within a period of four weeks from the date of receipt of a copy of this order.

The writ petition stands disposed of accordingly. Costs made easy.

sd/
ASSISTANT REGISTRAR (CO)

/TRUE COPY/

SUB-ASSISTANT REGISTRAR

cad

To

1 The Revenue Divisional Officer
Kancheepuram District
Kancheepuram

2 The Tahsildar
Sriperumbudur Taluk
Sriperumbudur
Kancheepuram District

3 The Block Development Officer
Sriperumbudur Panchayat Union
Sriperumbudur Taluk
Kancheepuram District

4 The President
Santhavellore Panchayat
Sriperumbudur Taluk
Kancheepuram District

+1 CC to MR.K.Balaji Advocate. SR.NO. 61287
+1 CC to Govt.Pleader. SR.NO. 61432

W.P. No.28595 of 2015

AR-CO

JD 18/11/2015