

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.09.2015

CORAM:

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI

AND

THE HON'BLE MR. JUSTICE K.K.SASIDHARAN

W.P. No.29378 of 2015

Harini Arcade Housing Welfare Association
(Regn. No.184/2014)
represented by its Secretary S.P.Gupta
No.2/265-A1, Harini Arcade
Vadavalli Post
Coimbatore 641 041

Petitioner

vs.

- 1 The District Collector
Coimbatore
- 2 The Commisisoner
Periyanaickenpalayam Panchayat Union
Periyanaickenpalayam Post
Coimbatore
- 3 The Executive Officer/The President
Somayampalayam Special Grade Panchayat
Somayampalayam
Coimbatore

- 4 S. Gunasekaran

Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the respondents 1 to 3 to consider their representation dated 12.11.2014 and 04.05.2015 and to remove the encroachments made by the fourth respondent in the park and overhead tank area in M/s. Harini Arcade situate in S.F. Nos.658/1, 2 and 4C, 659/2, 660, 662/1, 2 Part 3 of Somayampalayam Village, Periyanaickenpalayam Panchayat, Coimbatore District

For petitioner Mr. Babu Rangasamy

For R1 Mrs. A. Srijayanthi
 Special Government Pleader

For RR 2 & 3 Mr. R. Ravichandran
 Additional Government Pleader

ORDER

(delivered by SATISH K.AGNIHOTRI, J.)

Mrs. A. Srijayanthi, learned Special Government Pleader, accepts notice for the first respondent. Mr. R. Ravichandran, learned counsel, accepts notice for respondents 2 and 3. Notice to the fourth respondent is dispensed with at this stage, as, no action can be taken without affording an opportunity of hearing to him. Thus, with the consent of the learned counsel for the petitioner, learned Special Government Pleader and the learned counsel for respondents 2 and 3, the writ petition is taken up for final disposal at the admission stage itself.

2 The petitioner is a Housing Welfare Association. Feeling aggrieved by the inaction on the part of the first respondent in not considering the representation dated 04 May 2015, the Secretary of the petitioner association, representing the residents of the said association, has preferred this writ petition.

3 On a perusal of the petitioner's aforesaid representation, it is noticed that the petitioner has not only made a complaint qua the alleged encroachment made by the fourth respondent, but also, sought a direction to hand over the park and overhead tank to the members of the petitioner association for their exclusive use and enjoyment. Such a prayer cannot be granted, for, if the concerned park and overhead tank are public properties, it is held in trust for the use and enjoyment of the public and not confined to one section of the public or inmates of a particular apartment. Thus, we are not inclined to issue such a direction, as sought by the petitioner.

4 However, we make it clear that if a representation is made by the petitioner, pointing out the encroachments made by anyone, including the fourth respondent, it is the obligation of the authorities to examine the same at once and ensure that the public properties, viz., park and overhead tank remain un-encroached by anyone. Such an exercise shall be completed within a period of four weeks from the date of receipt of representation from the petitioner.

5 The writ petition stands disposed of with the above observation and direction. Costs made easy.

-s/d-

Assistant Registrar(CSII)
dt:29/9/2015

True Copy

Sub-Assistant Registrar

To

1 The District Collector
Coimbatore

2 The Commisisoner
Periyanaickenpalayam Panchayat Union
Periyanaickenpalayam Post
Coimbatore

3 The Executive Officer/The President
Somayampalayam Special Grade Panchayat
Somayampalayam
Coimbatore

+1 cc to M/S.Babu Rangasamy, Advocate sr.50981

W.P. No.29378 of 2015

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