

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 06.02.2015

Coram

The Hon'ble Mr.Justice T.S.Sivagnanam

Writ Petition No.28409 of 2013

and

M.P.No.1 of 2013

A.Alavudeen

...Petitioner

Vs.

The Commissioner,
Villupuram Municipality,
Villupuram.

...Respondent

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Mandamus, directing the respondent to remove the compound wall, blocking entry to R.S.No.2/4A1, in the 60 feet wide approved public street, named Abu Hanifa Street, in Salamath approved lay out in Villupuram, after clearing the garbage.

For Petitioner : Mr.V.Anand

For Respondent : Mr.P.Srinivas

O R D E R

The prayer in the Writ Petition is for issuance of Writ, in the nature of mandamus, directing the respondent-Municipality to remove the compound wall, blocking entry to R.S.No.2/4A1, in the 60 feet wide approved public street, named Imam Abu Hanifa Street, in Salamath approved lay out in Villupuram, after clearing the garbage.

2. Heard the learned counsel appearing for the petitioner and the learned counsel for the respondent-Municipality.

3. According to the petitioner, he is the absolute owner of the property, comprised in R.S.No.2/4A1, measuring 0.56 ares, situate in Villupuram, and in respect of the said property, patta has also been granted. The grievance of the petitioner is that, the respondent- Municipality have blocked the petitioner's access to the Chenna-Trichy Highway Road, by erecting a Wall compounded of compost yard. Therefore, the petitioner seeks direction upon the respondent-Municipality to remove the Wall.

4. The respondent-Municipality has filed a counter-affidavit, inter alia, stating that, even in the parent document of the survey

field No.2/4A1, the boundaries are not mentioned and it goes without saying that the property in S.F.No.2/4A1, has got direct access from the Chennai-Trichy Highway road and not through the compost yard, as claimed by the petitioner.

5. Therefore, it is manifestly clear that the issue involved in the Writ Petition is regarding the petitioner's easementary right to reach his property. The petitioner says that his access is only through the compost yard and the Wall should not be erected, whereas, the respondent- Municipality has taken a stand that the petitioner has direct access to the Chennai-Trichy Highway Road and not through the compost yard. In my considered opinion, these disputed questions of fact, cannot be resolved in this Writ Petition, and the petitioner has to approach the Civil Court of competent jurisdiction, so as to establish his right over the property.

6. With the above observation, the Writ Petition is disposed of. Consequently, connected M.P. is closed. No costs.

sd

-s/d-
Assistant Registrar(LA)
Dt:16/2/2015

True Copy

Sub-Assistant Registrar

To

The Commissioner,
Villupuram Municipality,
Villupuram.

+ 1 cc to Mr.V.Anand, Advocate SR 6553.

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prk23/2

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