



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :27.10.2015

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P(MD) .No.19349 of 2015

and

M.P (MD) No.1 of 2015

N.Thasarathaperumal ... Petitioner

Vs.

1.The District Collector,
Virudhunagar District,
Virudhunagar.

2.The Revenue Divisional Officer,
Revenue Divisional Office,
Satchiyapuram,
Sivakasi,
Virudhunagar District.

3.The Tahsildar,
Taluk Office,
Srivilliputhur Taluk,
Srivilliputhur,
Virudhunagar District.

... Respondents

Prayer: This Writ Petition has been filed under Article 226 of Constitution of India praying for a Writ of Mandamus, forbearing the respondents 1 to 3 from removing the wall put up by the Petitioner and other Co-owners in our Joint patta No.1885 land in Survey No.985/21B14 in Malli Village, in Srivilliputtur Taluk, Virudhunagar District.

For petitioner : Mr.N.Rahamadullah

For Respondents : Mr.S.Kumar

Addl. Government Pleader

ORDER

The Writ Petition has been filed praying for a Writ of Mandamus, forbearing the respondents 1 to 3 from removing the wall put up by the Petitioner and other Co-owners in petitioner's Joint patta No.1885 land in Survey No.985/21B14 in Malli Village, in Srivilliputtur Taluk, Virudhunagar District.

2. Mr.S.Kumar, learned Additional Government Pleader takes notice for the respondents.

<https://hcservices.ecourts.gov.in/hcservices/>

3. By consent, this Writ Petition itself is taken up for final disposal.



4. In the affidavit filed in support of the Writ Petition, it has been averred that the properties in Survey No.985/21B14 in Malli Village, in Srivilliputtur Taluk, Virudhunagar District is jointly possessed and enjoyed by Perumalsamy Naicker, Gurusamy Naicker and Kandasamy Naicker, Srinivasagam, Rengasamy Naicker and Lalitha, who are the vendors of the property. After the purchase, the petitioner along with other co-owners were enjoying the pathway and they are having joint patta in their name. The said pathway was purchased by the petitioner from one of the Co-owner Mrs.Lalitha along with house bearing Door No.130, through registered sale deed dated 19.08.2013. Thereafter, the petitioner jointly possessed and enjoyed the said property along with co-owners. Since the above said property is an exclusive pathway of the petitioner and other co-owners, they had put up a small Wall in the common pathway since a third party started to drain the waste water in the said pathway. Further, the said third parties made a false representation as if the petitioner and other co-owner put up a Wall in the Government Poramboke. But the third respondent without making proper enquiry directed the petitioner orally to remove the Wall put up by him and co-owners. Hence, the petitioner has given a detailed representation on 07.10.2015 to the third respondent by a registered post stating all the facts. But inspite of the said representation, on 23.10.2015 the third respondent came to the spot and without considering the representation, directed the petitioner to remove the Wall. Hence, the petitioner has come forward with this Writ petition for the above stated relief.

5. This petition has been filed seeking for a positive direction for not to remove the Wall put up by the petitioner and other co-owners. This Court is not conducting any roving enquiry on the allegations made by the petitioner. Therefore, a positive direction cannot be given by this Court. It is submitted that the petitioner has already made a representation, dated 07.10.2015 to the respondents.

6. In view of the same, without going into the merits of the case, this Court directs the respondent to consider the petitioner's representation dated 16.10.2015 and pass appropriate orders on the same on merits and in accordance with law, preferably, within a period of one week from the date of receipt of a copy of this order by affording an opportunity of hearing to all the necessary parties. It is made clear that this Court is not expressing any opinion on the merits of the claim made by the petitioner.

7. With the above direction, the Writ Petition is disposed of. No Costs. Consequently, connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar



To

1.The District Collector,
Virudhunagar District,
Virudhunagar.

2.The Revenue Divisional Officer,
Revenue Divisional Office,
Satchiyapuram,
Sivakasi,
Virudhunagar District.

3.The Tahsildar,
Taluk Office,
Srivilliputhur Taluk,
Srivilliputhur,
Virudhunagar District.

+1cc to M/S.N.Rahamadullah, Advocate in SR.No .63196

+1cc to Special Government Pleader in SR.No. 62749.

TS/04.11.2015/3P-6C/NGM-SS/SAR II

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