

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.06.2016

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.12136 of 2016

And

W.M.P.No.10495 of 2016

M.Rajathi

... Petitioner

Vs.

1 Government of Puducherry
rep. by its Executive Engineer
Public Works Department
Buildings & Road (Central Division)
Circle 1, Central Office, Puducherry.

2 Assistant Engineer,
Roads Central Sub- Division,
Public Works Department
Puducherry.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus forbearing the respondents from in any manner laying the roads in the subject matter of petitioners property situate in T.S.No.59, R.S.No.52/1 Part, Block No.6, Ward H to an extent of 591 Sq.ft. No.37, Pudupalayam Revenue Village, in Door No.433, Kamaraj Salai, Kuyavarpalayam, Mudaliarpet Commune, Puducherry without due process of law as well as the enquiry report of 2nd respondent dated 24.06.2015.

For Petitioner : Mr.M.Raja Sekhar

For Respondents: Mrs.D.Reena Iswariya
Additional Government Pleader (Pondy)

O R D E R

By consent, the writ petition is taken up for final disposal.

2.The grievance of the petitioner is that though she is the owner of the land bearing T.S.No.59, R.S.No.52/1 part, Block No.6, Ward H admeasuring an extent of 591 sq.ft. in Kamaraj Salai, Kuyavarpalayam, Mudaliarpet Commune, Puducherry

Municipality by virtue of a registered sale deed dated 04.05.2007, the respondent under the guise of widening the Saram Bridge had encroached upon her property and put up a Bridge and in this regard, on an earlier occasion, she has filed writ petition in W.P.No.15538 of 2015 praying for issuance of writ of mandamus forbearing the respondents from in any manner laying the roads in her property and it was disposed of on 03.06.2015 by this Court by permitting the petitioner to submit one more representation with further direction, directing the respondent to conduct enquiry and though the respondents took a stand that they have not encroached upon the petitioner's property, they had put up some construction on the pretext of widening the Bridge and hence, prays for appropriate orders.

3.Mr.M.Raja Sekhar, learned counsel appearing for the petitioner would submit that despite the stand taken by the official respondents by the counter affidavit, the fact remains that some portion of the petitioner's property has been encroached and the construction has been put up and the petitioner is eking out her livelihood as a small time vendor and left with no other option, she is constrained to file this writ petition.

4.Per contra, Mrs.D.Reena Iswariya, learned Additional Government Pleader (Pondy) invited the attention of this Court to the counter affidavit especially, paragraph nos.10 and 11 and would submit that in pursuant to the order of this Court made in W.P.No.15538 of 2015, enquiry was conducted, wherein, the petitioner also participated and accepted the fact that there was no encroachment and it is also the stand of the official respondents that there was no necessity to encroach the petitioner's property as the work relating to the widening of the Bridge was already been completed on 31.12.2015 itself and it is put to use for the benefit of the general public and prays for the dismissal of the writ petition.

5.This Court has considered the rival submissions.

6.Though it is the contention of the petitioner that some portion of her property has been encroached upon, the fact remains that the petitioner's property, in terms of the counter affidavit filed by the respondents, the official respondents did not encroach upon the petitioner's property and completed the work relating to the widening of Saram Bridge and also put it to the use of general public on and from 31.12.2015 itself.

7.In the light of the stand of the official respondents in the counter affidavit, no orders forbearing the respondents from interfering the petitioner's possession can be passed. However, the petitioner is at liberty to submit an application to survey the land, which is the subject matter of the sale deed dated 04.05.2007 (Document No.3049 of 2007 - Sub Registration Office,

Puducherry) to the jurisdictional Thasildar for survey of the property and as and when the applicant submits such application, the jurisdictional Thasildar is directed to give utmost preference and give disposal in accordance with law, within a period of two weeks from the date of receipt of the said application.

8.The writ petition is disposed of accordingly. No costs. Consequently, the connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar(VI)

//True Copy//

Sub Assistant Registrar

pri
To

1 The Executive Engineer
Government of Puducherry
Public Works Department
Buildings & Road (Central Division)
Circle 1, Central Office, Puducherry.

2 Assistant Engineer,
Roads Central Sub- Division,
Public Works Department
Puducherry.

+ 1 cc to M/s. M. Raja Sekhar, Advocate SR.29524
+ 1 cc to Government Pleader Sr.29684

W.P.No.12136 of 2016
And
W.M.P.No.10495 of 2016

RK(CO)
Eu 16.6.16

WEB COPY