

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.04.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.15144 of 2016

Dr.P.Chitra

..Petitioner

Vs.

1.The Revenue Divisional Officer cum
Executive Magistrate,
Erode Revenue Division,
Revenue Divisional Office,
Brough Road, Erode-638 001.

2.K.Muthusamy
3.D.Gandhimathi
4.P.Kokilapriya

...Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of mandamus, directing the first respondent herein to conduct an enquiry and pass suitable orders on merits expeditiously after considering petitioner's representation dated 15.04.2016 by affording an opportunity of fair hearing to the petitioner in accordance with law.

For Petitioner : Mr.C.E.Pratap

For R1 : Mr.M.Dig Vijaya Pandian,
Addl.Govt.Pleader

ORDER

The petitioner has come up with the present writ petition for a mandamus, directing the first respondent to consider her representation dated 15.04.2016 and to conduct an enquiry and pass suitable orders on merits and in accordance with law, after affording an opportunity of personal hearing to the petitioner.

2. The case of the petitioner, as averred in the affidavit filed in support of this writ petition, is as follows:

2.1 The petitioner has acquired the vacant land in R.S.No.1256/3 situated at Bemankattu Street, Kollampalayam, Erode through a Will registered as Document No.99/2003 dated 25.08.2003 on the file of the Sub Registrar, Surampatti, Erode, executed by her father late K.S.Poosappan. After the death of her father in the year 2003, the petitioner has been in peaceful possession and enjoyment of the said land, which was mentioned as Item No.8 in Will No.99/2003.

2.2 While so, the second respondent herein, who is having a property at R.S.No.1256/6B, has obtained electricity service connection bearing No.356 for domestic purpose, but he is using the said power connection for construction of a building in the said land, adjacent to the petitioner's land, by obstructing 5 feet East West common pathway to be used by all other neighbouring land owners including the petitioner.

2.3 Similarly, the respondents 3 and 4, who are the neighbouring land owners, have also constructed their houses and dug a bore well for fetching water to their houses, thereby occupied the said 5 feet East West common pathway, which has been used by the petitioner for peaceful ingress and egress to her land.

2.4 According to the petitioner, the respondents 2 to 4 have constructed their respective houses by violating the rules as contemplated under the Manual of Land Survey and Boundaries Act, 1923, which will certainly cause disturbance to use the common pathway by others. Even after repeated requests made by the petitioner, they have not taken any steps for using the common lane by all the land owners. Hence, she made a representation to the first respondent on 15.04.2016 narrating all the facts and requesting to conduct enquiry and pass necessary orders. However, till date, no action has been taken by the first respondent. Therefore, the petitioner has filed the present petition for the above stated relief.

3. Heard the learned counsel for the petitioner and the learned Additional Government Pleader, who took notice for the first respondent.

4. Considering the limited scope of the prayer sought for in the writ petition, without expressing any opinion with regard to the merits of the claim made by the petitioner, this Court directs the first respondent to consider the representation of the petitioner dated 15.04.2016 by affording an opportunity of personal hearing to the petitioner as well as to the respondents 2 to 4 and pass appropriate orders, on merits

and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order.

5. The writ petition is disposed of accordingly. No costs.

rk

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To
The Revenue Divisional Officer cum
Executive Magistrate,
Erode Revenue Division, Revenue Divisional Office,
Brough Road, Erode-638 001.

+ 1 cc to The Govt.Pleader, Sr 25849

+ 1 cc to Mr.C.E.Pratap, Advocate Sr 25342

KR/2/6/16

W.P.No.15144 of 2016



WEB COPY