

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.02.2016

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.23317 of 2014
& M.P.No.1 of 2014

R.Sathiyavathy

... Petitioner

Vs.

1. The State of Tamil Nadu,
Rep. by its Secretary to Government,
Rural Development Department,
Secretariat, Fort St.George,
Chennai-600 009.

(first respondent deleted from the cause title
- vide order dated 26.02.2016 in M.P.No.2 of 2014
in W.P.No.23317 of 2014)

2. The Director of Rural Development,
Pangal Maligai, Saidapet, Chennai-600 015.
3. The Director of Town and Country Planning,
No.807, Anna Salai, Chennai-600 002.
4. The District Collector, Tiruppur District, Tiruppur.
5. The Block Development Officer,
Palladam Panchayat Union,
Thiruppur District.
6. The President,
Karadivavi Village Panchayat,
Palladam Taluk, Thiruppur District.
7. Tmt.Kaliammal
8. Thiru.K.Krishnan

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus to direct the respondents 1 to 5 to take appropriate legal action for removal

of obstruction / blockade made by the respondents 6 to 8 by constructing a fencing across 16 feet public roads / panchayat roads formed in Krishna Nagar in S.No.280/1A1 Karadivavi Village, Palladam Taluk, Thiruppur District, vested with sixth respondent village panchayat, within a time frame to be fixed by this Court.

For Petitioner : Mr.G.Sankaran

For Respondents : R-1 deleted from cause title
vide Order dated 26.02.2016

Mr.V.Jayaprakash Narayanan,
Special Government Pleader
for RR-2, 3, 4 and 6

Mr.N.Roofus Abraham,
Government Advocate for R-5

Mr.R.Sankarappan for R-8
No appearance for R-7

ORDER

The petitioner has filed this Writ Petition praying for issuance of a Writ of Mandamus to direct the respondents 1 to 5 to take appropriate legal action for removal of obstruction / blockade made by the respondents 6 to 8 by constructing a fencing across 16 feet public roads / panchayat roads formed in Krishna Nagar in S.No.280/1A1 Karadivavi Village, Palladam Taluk, Thiruppur District, vested with sixth respondent village panchayat, within a time frame to be fixed by this Court.

2. It is case of the petitioner as projected in the affidavit filed in support of the Writ Petition that out of the total extent of land measuring 12.52 acres, the petitioner purchased the land in S.No.280/1A1 of an extent of 2.79 acres through a registered sale deed from the original owner, which is lying on the Southern side of cart track running East-West through the land. It is further stated that the land located on the Northern side to cart track of a total extent of 9.26 acres in the land in S.No.280/1A1 belongs to the seventh respondent-Kaliammal, who through her Power Agent, namely the eighth respondent, promoted the land belonging to her in three lay-outs. The land of an extent of 6 acres located on the Northern side of the cart track, was developed into lay-out in the name of Krishna Nagar in 2006. The eighth respondent, who is the Power Agent of the seventh respondent, developed the lay-out in

the name of Kirshna Nagar and also executed gift deed in favour of the sixth respondent Village Panchayat, handing over the common road area running throughout the layout. Based on the transfer of land, the sixth respondent has taken over the land and laid concrete road in respect of the adjoining layout roads. The layout sketch enclosed with gift deed transferring the road portion discloses that the layout roads are connected to cart track lying on the Southern side in order to connect further lands on the Southern side which belongs to the petitioner.

3. It is further averred by the petitioner that in order to develop the land into layout of house sites, she approached the sixth respondent for approval by making necessary application and since the petitioner refused to pay the amount jointly demanded by the sixth and eighth respondents, both of them suddenly put up a barbed wire fencing across the road on the Southern end of the road of Krishna Nagar layout, thereby preventing entry from the petitioner's land through cart track. Therefore, the public road that was handed over to the Village Panchayat by the eighth respondent based on the gift deed executed on 27.03.2006 is being blocked by the eighth respondent along with sixth respondent, thereby preventing the petitioner from promoting layout by denying the access through the road portion in the Krishna Nagar layout. Hence, the petitioner made a representation to the respondents 2, 3 and 4 by referring to the fact that the sixth and eighth respondents are jointly putting up fence across the Panchayat road, thereby the access for general public through the Panchayat road from the Southern side lands to reach Anupatti Main Road lying on the Northern side, is blocked. The said representation was handed over by the fourth respondent-District Collector to the fifth respondent-Block Development Officer to take appropriate legal action. A civil suit in O.S.No.107 of 2014 has also been filed by the seventh respondent on the file of the District Munsif Court, Palladam, against the fifth and sixth respondents and others, for permanent injunction restraining the defendants from in any way interfering with the plaintiff's peaceful possession and enjoyment of the suit property. The suit is pending without any interim order. Since no action is taken by the official respondents, the petitioner has come before this Court for the above relief.

4. The eighth respondent filed counter affidavit, denying the allegations made by the petitioner in her affidavit and inter-alia stating that since the petitioner and third parties are attempting to trespass on the three feet vacant land retained by the eighth respondent on the Southern side, he filed a Civil Suit in O.S.No.107 of 2014 and the petitioner has not filed her written statement in the said suit.

5. The fifth respondent has filed counter affidavit disputing the case of the writ petitioner and stated that the seventh respondent and her General Power Agent eighth respondent converted the land measuring 6.00 acres adjoining the Northern side of a cart-track running between the land of the petitioner on the Southern side of the above said cart track, through East to West, for the purpose of promoting house sites layout called as Krishna Nagar in contravention of the Rules of the Village Panchayat.

6. Heard both sides.

7. Though very many contentions are raised in the affidavit and the counter affidavits, this Court is of the opinion that in view of the statement made by the fifth respondent in the counter affidavit, I am of the view that it would be suffice to direct the petitioner to submit a fresh representation and in the event of such representation being filed, a direction is issued to the fourth respondent to take appropriate action with regard to the grievance of the petitioner for removal of obstruction/blockade made by the respondents 6 to 8. Accordingly, the petitioner is directed to submit a fresh representation to the fourth respondent within a period of two weeks from the date of receipt of a copy of this order, along with a copy of this order and also along with necessary documents and on receipt of such representation, the fourth respondent is directed to pass appropriate orders on the said representation and dispose of the same, after giving an opportunity of personal hearing to the petitioner, respondents 6 to 8 and other necessary parties, on merits and in accordance with law, and he shall complete the above exercise within a period of eight weeks thereafter. It is made clear that this Court has not expressed any opinion on the merits of the claim of the petitioner and it is for the fourth respondent to decide the same on merits.

8. With the above observations and directions, the Writ Petition is disposed of. No costs. The Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CS III)

//True Copy//

Sub Assistant Registrar

CS

To

1. The Secretary to Government,
State of Tamil Nadu,
Rural Development Department,
Secretariat, Fort St.George, Chennai-600 009.
2. The Director of Rural Development,
Pangal Maligai, Saidapet, Chennai-600 015.
3. The Director of Town and Country Planning,
No.807, Anna Salai, Chennai-600 002.
4. The District Collector,
Tiruppur District, Tiruppur.
5. The Block Development Officer,
Palladam Panchayat Union,
Thiruppur District.
6. The President,
Karadivavi Village Panchayat,
Palladam Taluk, Thiruppur District.

+1cc to Mr.R.Sankarappan, Advocate, S.R.No.12272

+1cc to Mr.G.Sankaran, Advocate, S.R.No.12337

+1cc to the Government Pleader, S.R.No.12576

W.P.No.23317 of 2014

EV(CO)
CA(15/03/2016)

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