

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.01.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.31810 of 2015

M.Murugesan

... Petitioner

Vs.

1.The District Collector,
Kancheepuram District,
Kancheepuram.

2.The Tahsildar,
Alandur Taluk,
Alandur, Chennai.

3.The Commissioner,
Pallavaram Municipality,
Chrompet, Chennai.

4.V.Ramanathan

5.Krishnan

6.Jayachandiran

7.Rajieev

8.Shanmuganathan

9.Kasturi

10.Vijayalakshmi

11.Rajeswari

12.Kalaiselvi

... Respondents



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Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of mandamus directing the first respondent to dispose the petitioner's representation dated 18.9.2015, under Section 133 Cr.P.C. and consequently, restraining the respondents 4 to 12 herein from interfering with the petitioner and others in using and developing the existing road between from Pachayamman Koil Street to Malaimagal Nagar in a peaceful manner till the finality of the representation dated 18.9.2015.

For Petitioner : Mr.M.Pari

For Respondents : Mr.C.Emalias,
Additional Public Prosecutor,
for R.1 and R.2
Mr.G.Bala, for
M/s.G.Bala and Daisy
for R.4
Mr.P.Vijendran,
for R.5 to R.12

ORDER

The petitioner has come up with the present writ petition for a mandamus, directing the first respondent to dispose of his representation dated 18.9.2015, under Section 133 Cr.P.C.

2. It is the case of the petitioner that the petitioner and nearly 500 families have been residing at Malaimagal Nagar located in Survey No.341/9, which is a Malaiporamboke land as per revenue and Municipal records, for the past 40 years. Nearly 180 families are having patta which was issued by the Tamil Nadu Government in the year 2010. They have also obtained power connection, voter ID and family cards. There are 500 families having access to the road from Pachayamman Koil Street to Malaimagal Nagar, which is the only way to reach the main road, for the past 40 years. While so, the respondents 4 to 12 tried to put up fencing and wall on the said road and the same was objected by the petitioner and other residents. In this regard, the petitioner made a representation to the Chief Minister's Cell as well as to the respondents 1 to 3. On receipt of the said representation, the first respondent

directed the second respondent by letter dated 15.5.2015 in Na.Ka.No.10580/2015/No.3 to take action and file a report. But, till date, no action has been taken by the second respondent. As per the records of respondents 1 to 3, the said road was laid in Survey No.341/9, which is a Malaiporamboke land. But, the respondents 4 to 12 are trying to put up fencing on the said road along with adjacent Malaiporamboke land on 9.7.2015. In this regard, they have lodged many complaints to the Pallavaram Police Station. Without taking any action on the said complaints, the complaint of the fourth respondent was assigned CSR number as CSR No.493 of 2015. Consequently, with the help of the muscle and money power, the respondents 4 to 12 were obstructing the road usage of the petitioner and the residents. Hence, the petitioner made a representation dated 18.9.2015 to the respondents 1 to 3 and the same was received by the first respondent on 21.9.2015. But, till date, no action was taken on the said complaint. Hence, the petitioner has come up with the present petition for a mandamus directing the first respondent to dispose of his representation dated 18.9.2015, under Section 133 Cr.P.C.

3. The fifth respondent has filed a counter wherein it has been stated that the road was not laid in Survey No.341/9, which is a Malaiporamboke land. The petitioner is working as a Conductor in the Metropolitan Transport Corporation, Alandur. He is having a political background. Already there is a dispute over the land between the respondents 4 and 5. The petitioner is having three different ways on three directions to reach the road. Now, the present writ petition has been filed only with false allegations. Thus, he sought for dismissal of the writ petition.

4. Learned Additional Public Prosecutor submitted that it is for the authorities to decide as to whether Section 133 Cr.P.C. should be invoked or not. Hence, this petitioner cannot compel them to invoke Section 133 Cr.P.C. Thus, he opposed to grant the relief sought for by the petitioner.

5. Irrespective of the submissions made on either side, since already a representation is pending before the respondents 1 to 3, without going into the merits of the claim made by the petitioner, this Court directs the second respondent to consider the representation of the petitioner dated 18.9.2015, by affording an opportunity of personal hearing to the petitioner as well as to the respondents 4 and 12 and pass

appropriate orders. It is made clear that this Court is not expressing any opinion with regard to the merits of the claim made by the petitioner and it is for the second respondent to pass appropriate orders purely on merits and in accordance with law. The entire exercise shall be completed within a period of three months from the date of receipt of a copy of this order. The writ petition is disposed of accordingly. No costs.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

sbi

To

1. The District Collector,
Kancheepuram District,
Kancheepuram.
2. The Tahsildar,
Alandur Taluk,
Alandur, Chennai.
3. The Commissioner,
Pallavaram Municipality,
Chrompet, Chennai.

+1cc to M/s.G.Bala and Daisy, Advocate, S.R.No.516

W.P.No.31810 of 2015

VGI (CO)
CA(20/01/2016)

सत्यमेव जयते

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