

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.04.2016

CORAM

THE HON'BLE MR. JUSTICE SATISH K.AGNIHOTRI
and
THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

W.P. No.32719 of 2015

A.M.Viswanathan

... Petitioner

Vs.

1. State of Tamil Nadu rep. by
District Collector,
Erode District.
2. The Tahsildar,
Perundurai.
3. The Ekkamtampalayam Panchayat
rep. by the President,
Chennimalai, Perundurai.
4. Velliangiri

... Respondents

Petition filed under Article 226 of The Constitution of India praying for the issuance of a writ of mandamus directing the second respondent herein to remove the encroachment made in the Natham Street in S.No.584/4 erected by the fourth respondent and to take other necessary steps.

For Petitioner : Mr.V.Balamurugane
For Respondents : Ms.A.Srijayanthi,
Special Government Pleader
for R1 & R2
Mr.V.Kadhirvelu for R3
Mr.R.Kannan for R4

ORDER

(Order of the Court was made by SATISH K.AGNIHOTRI, J.)

With the consent of the learned counsel appearing for the parties, the writ petition is taken up for final disposal.

2. Seeking a direction to the second respondent to remove the encroachment made in the Natham Street in S.No.584/4 erected by the fourth respondent, the petitioner has come up with the instant writ petition.

3. It is the case of the petitioner that he is the resident of the area in question and alleging that the fourth respondent herein has encroached the common pathway in R.S.No.584/4 marked as Natham Street, the petitioner and other villagers submitted a representation dated 25 September 2013 to the third respondent. Based on the communication of the third respondent, the second respondent issued a statutory notice dated 22 October 2013 to the fourth respondent, to which, the fourth respondent made a reply, seeking regularisation of encroachment. Rejecting the said request, the second respondent directed the fourth respondent to remove the encroachment within a period of 15 days. Since no action was taken, the petitioner filed a writ petition being W.P.No.1823 of 2014. The said writ petition was disposed of stating that since the suit being O.S.No.185 of 2013 preferred by the fourth respondent is pending on the file of the District Munsif, Perundurai, no direction could be issued, with liberty to the petitioner to approach the second respondent. Thereafter, the petitioner submitted a representation dated 31 October 2014 to the second respondent stating that the suit pertains only to the land in S.No.584/3. Since the second respondent replied that no action could be taken till the disposal of the suit, the petitioner is before us.

4. In response to the notice issued by this Court, the third respondent has filed counter affidavit stating that on spot inspection, it was found that the allegation of encroachment was true and accordingly, a notice under Section 7 of the Land Encroachment Act was issued on 15 December 2015 and also final notice was served on 31 December 2015. Thereafter, steps were initiated for removal of the encroachment in Survey No.584/4.

5. Learned counsel appearing for the petitioner fairly submits that the structure has been removed, however, the concrete portion is yet to be removed.

6.In view of the above submissions, we direct the third respondent to remove the remaining concrete portion within a period of two weeks from today.

7.With the aforesaid observation and direction, the writ petition stands disposed of. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1. The District Collector,
Erode District.
2. The Tahsildar,
Perundurai.
3. The President,
Ekkamtampalayam Panchayat,
Chennimalai, Perundurai.

+1cc to Mr.P.Muthukumarasaamy, Advocate, S.R.No.22845
+1cc to the Government Pleader, S.R.No.23214

W.P. No.32719 of 2015

LRS (CO)
CA(26/04/2016)

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