

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.07.2016

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G. RAMESH
and
THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

Writ Petition No.24168 of 2016

G.Sivaraj

...Petitioner

Vs.

1.The District Collector,
Nilgiris District,
Udhagamandalam.

2.The Municipal Commissioner,
Udhagamandalam Municipality,
Udhagamandalam,
Nilgiris District.

3.The Municipal Engineer,
Udhagamandalam Municipality,
Udhagamandalam,
Nilgiris District.

4.The Revenue Divisional Officer,
Udhagamandalam Division,
Udhagamandalam,
Nilgiris District.

5.The Tahsildar,
Udhagamandalam Taluk,
Udhagamandalam,
Nilgiris District.

6.Meenakshi Sundaram

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing respondents 1 and 2 herein to initiate appropriate action to remove all the encroachments made on the Kundha House Municipal Road adjoining the petitioner's immovable property, which is more fully comprised in T.S.Nos.H-11/1, 90, 93, 94 & 95 (Old R.S.No.291 &

292) located in Manjanakorai, Fern Hill, Udhagamandalam, Nilgiris District, based on the petitioner's representation dated 12.05.2016.

For Petitioner : Mr.P.M.Duraiswamy

For R1, R4 & R5 : Mr.P.S.Sivashanmugasundaram, SGP

For R2 & R3 : Mr.P.Sanjay Gandhi, AGP

ORDER

(Order of the Court was made by HULUVADI G. RAMESH,J.)

Mr.P.S.Sivashanmuga Sundaram, learned Special Government Pleader, accepts notice on behalf of respondents 1,4 and 5. Mr.P.Sanjay Gandhi, learned Additional Government Pleader accepts notice for respondents 2 and 3. With the consent of both the parties, the writ petition is taken up for final disposal at the admission stage itself.

2. The prayer made in the writ petition is to issue a Writ of Mandamus, directing respondents 1 and 2 to initiate appropriate action to remove all the encroachments made on Kundha House Municipal Road, adjoining the petitioner's immovable property, comprised in T.S.Nos.H-11/1, 90, 93, 94 & 95 (Old R.S.No.291 & 292) located in Manjanakorai, Fern Hill, Udhagamandalam, Nilgiris District, based on the petitioner's representation dated 12.05.2016.

3. The case of the petitioner is that he is the title holder and is in absolute possession and enjoyment of the land and building comprised in T.S.Nos.H-11/1, 90, 93, 94 & 95 (Old R.S.No.291 & 292) measuring to an extent of 75-11/16 cents in Manjanakorai, Fern Hill, Udhagamandalam, Nilgiris District, which was allotted to him by way of family partition in Document No.1126/2015 dated 12.08.2015 on the file of the Sub Registrar, Joint I, Ootacamund. All the revenue records, such as Patta, chitta, adangal etc stand in his name. Be that as it may, one Meenakshi Sundaram/6th respondent herein, who is running BTR water supply and JJ Water supply, is drawing water from an open well and two bore wells sunk in his land through pipelines laid in a private pathway. In order to facilitate filling up of water into his tanker lorries for commercial sale of water, the sixth respondent, without obtaining valid permission from the concerned authorities, has also laid pipeline and constructed shed and platform illegally on Kundha House Municipal Road, which is adjoining to the petitioner's property. Hence, the petitioner made a representation dated 12.05.2016 to the second

respondent, copy of which is addressed to respondents 1 and 3, requesting to remove the encroachments made on Kundha House Municipal Road. As there was no response with regard to his request, the petitioner has filed the present writ petition for the above stated relief.

4. Learned counsel for the petitioner submits that the encroachment made on Kundha House Municipal Road and the usage of the same for illegal commercial activities by the sixth respondent is not only causing traffic congestions and inconvenience to the public, but is also obstructing ingress and egress into the petitioner's property from the road. Therefore, for removal of the said encroachment, the petitioner submitted a representation, which is pending without any progress.

5. Learned Special Government Pleader, who was directed to take notice for respondents 1, 4 and 5, submits that there is no encroachment on Kundha House Municipal Road, as alleged by the petitioner. However, if there is any encroachment, the same will be removed by the first respondent, as per law.

6. Taking into consideration the submissions made on either side, the 1st respondent/District Collector, Nilgiris District, is directed to consider the representation made by the petitioner dated 12.05.2016 with regard to the encroachments made on Kundha House Municipal Road, by conducting enquiry. Thereafter, if there is any encroachment, it is for the first respondent to do the needful and take appropriate action for removing the encroachments in accordance with law, after issuing notice and providing an opportunity of personal hearing to the petitioner as well as to the sixth respondent. Such exercise shall be carried out by the first respondent taking assistance from the other official respondents herein within a period of three months from the date of receipt of a copy of this order.

7. Accordingly, the Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To

1.The District Collector,
Nilgiris District,
Udhagamandalam.

2.The Municipal Commissioner,
Udhagamandalam Municipality,
Udhagamandalam,
Nilgiris District.

3.The Municipal Engineer,
Udhagamandalam Municipality,
Udhagamandalam,
Nilgiris District.

4.The Revenue Divisional Officer,
Udhagamandalam Division,
Udhagamandalam,
Nilgiris District.

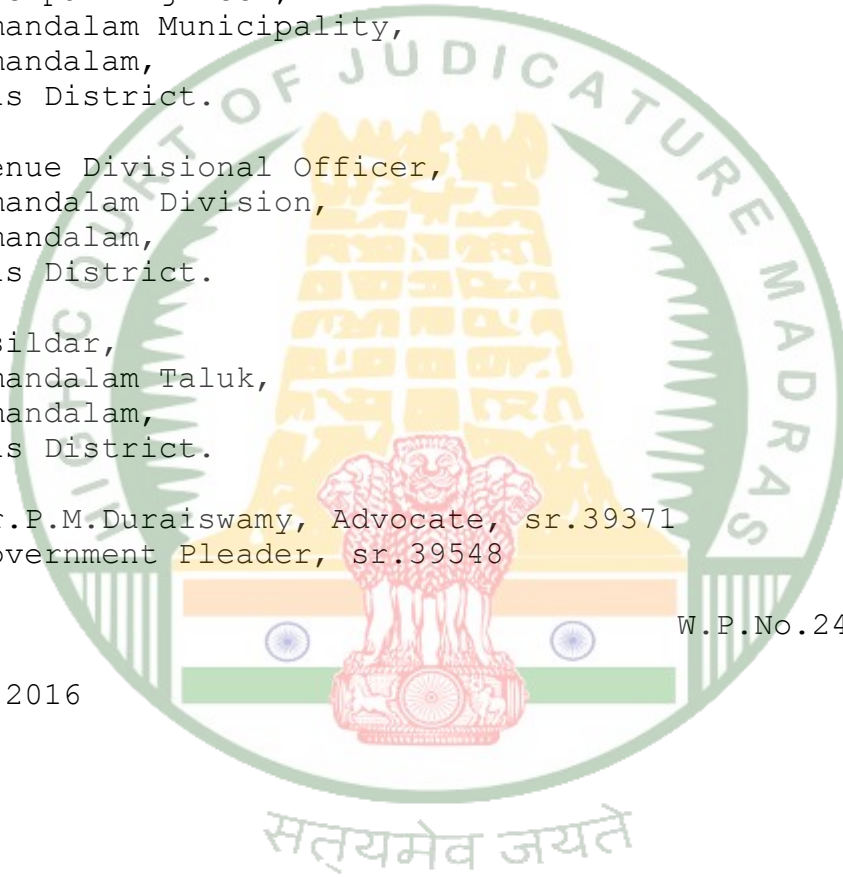
5.The Tahsildar,
Udhagamandalam Taluk,
Udhagamandalam,
Nilgiris District.

1 cc to Mr.P.M.Duraiswamy, Advocate, sr.39371

1 cc to Government Pleader, sr.39548

sv co
kra 02.08.2016

W.P.No.24168 of 2016



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