

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.03.2016

CORAM:

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI

and

THE HON'BLE MR. JUSTICE M. VENUGOPAL

W.A. No.243 of 2016 and C.M.P. No.4134 of 2016

A. Venkatachalam

Appellant

vs.

1 Saraswathi

2 Uma Maheshwari

3 The Commissioner
CBE Municipal Corporation
Coimbatore

4 The Member Secretary
Local Planning Authority
Coimbatore

5 The Deputy Director of
Town and Country Planning
Coimbatore

6 The Inspector of Police - Law and Order
B4 Police Station
Coimbatore

Respondents

Writ Appeal preferred under Clause 15 of the Letters Patent challenging the order dated 28.01.2016 passed in W.P. No.40164 of 2015. Petition filed U/Art. 226 of the constitution of India praying to issue a writ of Mandamus to directing the respondents 1 to 4 forthwith restore the private road as approved by the 1st respondent on 22.2.1985 in Approval No. 32798/83/H5 running north south from Race Course Road to the petitioners property to its position prior to 3.12.2015

For appellant Mr. T.R. Rajagopalan, Sr. Counsel
for Ms. P. Veena Suresh

For RR 1 & 2 Mr. M.S. Krishnan, Sr. Counsel
for M/s. Sarvabhauman Associates

For R3 Mr. K. Magesh

For RR 4 to 6 Mr. P.S. Sivashanmugasundaram
Special Government Pleader

ORDER

(delivered by SATISH K. AGNIHOTRI, J.)

M/s. Sarvabhauman Associates, learned counsel, accept notice for respondents 1 & 2/caveators. Mr. K. Magesh, learned Standing Counsel, accepts notice for the third respondent. Mr. P.S. Sivashanmugasundaram, learned Special Government Pleader, accepts notice for respondents 4 to 6. With consent, the writ appeal is taken up for final disposal, at the admission stage itself.

2 This writ appeal is focussed against the order dated 28 January 2016 rendered in W.P. No. 40164 of 2015. The fifth respondent in the said writ petition has preferred the instant writ appeal.

3 To avoid prolixity, the parties are referred to as per their rank in the instant writ appeal.

4 The respondents 1 and 2 filed the instant writ petition seeking a writ of mandamus directing the respondents 3 to 6 to forthwith restore the private road as approved by the third respondent on 22 February 1985 in Approval No.32798/83/H5 running North-South from Race Course Road to their property to its position prior to 03 December 2015.

5 The learned Single Judge, noticing the disputed questions of facts, disposed of the writ petition as under:

"6. x x x x x x x x x x x Thus, in the light of there being serious disputed questions of fact, all parties should agitate their rights in the pending civil suit and the official respondents should not resort to any shortcut methods.

In the result, the writ petition is disposed of by permitting the petitioners to restore the compound wall to its original position at their cost, with liberty to recover the cost from the Coimbatore Municipal Corporation, subject to the outcome of the civil proceedings and parties in this writ petition as well as the other defendants shall be bound by the decision of the Civil Court. No costs. Consequently, connected Miscellaneous Petition is closed."

6 Mr. T.R. Rajagopalan, learned Senior Counsel appearing for the appellant, submits that all the parties are not represented in the pending suit. Thus, a direction be issued to take necessary steps for impleading the proper parties and also for expeditious disposal of the pending suit, to the Principal District Munsif, Coimbatore, to which, Mr. M.S. Krishnan, learned Senior Counsel appearing for respondents 1 and 2, has no objection.

7 Accordingly, we direct the Principal District Munsif, Coimbatore, wherein, the suit in O.S. No.47 of 2014 is pending consideration, to expedite disposal of the said suit, in accordance with law and on its own merits.

The writ appeal stands disposed of with the above direction. Costs made easy. Connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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cad

To

1. The Principal District Munsif,
Coimbatore.
- 2 The Commissioner
CBE Municipal Corporation
Coimbatore

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- 3 The Member Secretary
Local Planning Authority
Coimbatore
- 4 The Deputy Director of Town and
Country Planning
Coimbatore
- 5 The Inspector of Police - Law and Order
B4 Police Station
Coimbatore

+ 1 cc to M/s. P. Veena Suresh, Advocate Sr.14567
+ 1 cc to M/s. Sarvabhauman, Advocate Sr.14695

W.A. No.243 of 2016

CTK(CO)
Eu 21.03.16



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