

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.08.2016

CORAM :

The Hon'ble MR.SANJAY KISHAN KAUL, CHIEF JUSTICE
AND

The Hon'ble MR.JUSTICE R.MAHADEVAN

W.P. No.28977 of 2016

A.Kumar ... Petitioner

-vs-

- 1.The District Collector,
Villupuram District,
Villupuram.
- 2.The Sub Collector,
Office of the Divisional Officer,
Tirukoilur,
Villupuram District.
- 3.The Tahsildhar (Revenue),
Taluk Office, Tirukoilur,
Villupuram District.
- 4.The Block Development Officer,
Panchayat Union Office,
Tirukoilur, Villupuram District.

5.C.Selvaraj
6.T.Govindaraj

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorarified Mandamus to call for the records of the 3rd respondent culminating in his order Ref.No.Na Ka A1/15662 of 2013 dated 20.02.2014, quash the same and direct the respondents to forthwith remove the encroachments by demolishing the illegal construction put up by respondents 5 and 6 in and over survey No.397/19 in Sengannakolai Village, Tirukoilur Taluk, Villupuram District, which stands classified as ''Lane'' as per Revenue records, within a time limit that may be stipulated by this Court.

For Petitioner : Mr.B.Harikrishnan
For Respondents : Mr.M.K.Subramanian
Govt. Pleader, for RR 1 to 4

O R D E R

(Order of the Court was made by The Hon'ble Chief Justice)

We have perused the order passed by the Revenue Tahsildar. The petitioner has chosen to take recourse of a public interest litigation and thus, it is presumed that he is not interested in assailing the order in any other manner. It is in these circumstances that we are commenting on the merits of the controversy.

2.The dispute pertains to Village Survey No.397/19 in Sengannakolai Village, Tirukoilur Taluk, Villupuram District. It is the case of the petitioner that private respondents 5 and 6 have encroached on public land inasmuch as they have constructed a part of their house in the lane.

3.The order of the Tahsildar shows that the private respondents took a defence that the disputed site was their own property in which 16 square meter has been wrongly marked as a lane in the Village Register and they had purchased the property from the predecessor title holder. On the other hand, the stand of the petitioner was that since it was marked as a lane, the construction is the encroachment and thus, must be removed.

4.The Village Administrative Officer has deposed that 0.72 sq.mt area under the Village Natham Survey No.397/19 was marked as lane under UDR scheme. But the site was owned by Mr.Selvaraj / the fifth respondent and he had been living at the site in a building constructed under the Government housing scheme from the year 2010. The portion was marked as a lane under the UDR scheme in 1994 and was let out for the "usage of the above title holders".

5.What really, thus, transpires is that there is no public passage and it is the land of the title holders, but has been designated as a lane area for the usage of the title holders. The patta was, however, not issued to the site as the same was vacant under the UDR scheme, but it was duly sub-divided as per village records. This is the reason that at site there appears to be some discrepancy between the holding of the private respondents as reflected in the registered document as compared to the site.

6.The order has, thus, opined that a status quo should be maintained at site especially taking into consideration the title being in favour of the private respondents and the petitioner's easementary rights not being affected in any manner.

7.We are of the view that this is really a neighbours' dispute where the petitioner has no right in view of the detailed order passed by the revenue authorities and seeks to rake up the issue even though the construction by the private respondents is on their land, albeit a part of it designated as lane in the revenue records for the private rights of the title holders.

8.We do not find any ground to interfere as a public interest litigation or otherwise on the merits of the controversy, as has been decided aforesaid.

9.Writ petition is dismissed. No costs. Consequently, W.M.P.No.25061 of 2016 is also dismissed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

sra

To

- 1.The District Collector,
Villupuram District, Villupuram.
- 2.The Sub Collector,
Office of the Divisional Officer,
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Taluk Office, Tirukoilur, Villupuram District.
- 4.The Block Development Officer,
Panchayat Union Office,
Tirukoilur, Villupuram District.

1 cc to Mr.B.Harkrishnan, Advocate, sr.47448

1 cc to Government Pleader, sr.47359

W.P.No.28977 of 2016

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kra 07.09.2016