

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.11.2016

CORAM

THE HONOURABLE MR. JUSTICE N. KIRUBAKARAN

W.P. No. 37017 of 2016
&
W.M.P. No. 31829 of 2016

Syed Ali Saheb

..Petitioner

Vs.

1. The Commissioner,
Hosur Municipality,
Hosur - 635 109.

2. Divisional Railway Manager,
South Western Railway,
Bangalore Division Office
Works Branch,
Bangalore - 23.

..Respondents

Prayer: Petition under Article 226 of the Constitution of India praying for issue of a Writ of Mandamus directing the 2nd respondent not to interfere with the petitioner's use of the public road leading to his property in survey No. 68A/2B and for consequential orders.

For Petitioner :: Mr.V. Lakshminarayanan

For Respondents:: Mr.Subbarayalu for R1
Mr. Ramkumar for R2

सत्यमेव जयते
O R D E R

This writ petition is filed for issue of a Writ of Mandamus directing the 2nd respondent not to interfere with the petitioner's use of the public road leading to his property in survey No. 68A/2B and for consequential orders.

2. The petitioner is the owner of the property bearing Survey No. 68A/2B. The property was adjoining a highway and there was also a railway gate. After the highway was taken over by the 2nd respondent, he made arrangements to remove the Railway Gate and constructed a sub-way. After the highway was taken over by the 2nd respondent, the respondents attempted to block the access and insisted that the petitioner should enter into an agreement

with them for the use of road. However, the same was opposed by the petitioner. The respondent Railway called upon the petitioner to pay for using the road and threatened to close the access. Thereafter, the petitioner issued a notice to the 2nd respondent and a reply was received from the 2nd respondent on 12.06.2006 stating that as per the guidelines of Ministry of Railways, any sort of construction or formation of layout should require a No Objection Certificate from the Divisional Manager. According to the petitioner, his property is duly assessed by the Hosur Municipality and there is no deviation or objectionable portion in his property. The petitioner would further state that earlier, to a notice issued on 07.05.2012 stating that the petitioner had encroached upon Survey No. 68A, the petitioner sent a reply stating that he is in occupation of Survey No. 68A/2B, which had been purchased on 30.03.2011 and for which patta had also been issued by the revenue authorities. Thereafter, the 1st respondent dropped all proceedings. Since the road leading to the Railway Station was blocked by the transformer, the petitioner made a complaint to the Sub-Collector, Hosur, stating that access should be made in a more convenient manner. The Sub-Collector, on 13.04.2016, had directed the 1st respondent to take appropriate action. On 29.08.2016, the petitioner gave a letter to the Assistant Divisional Engineer, South Western Railways, Dharmapuri, to allow him to use the stretch of railway land, near the sub-way, as pathway, who, in turn typed a letter in Tamil and took the petitioner's signature. Though the petitioner is not conversant with Tamil, he was compelled to sign the said letter and the said letter is used against the petitioner stating that he had admitted in the said letter that he had encroached upon the property of the Railways. Since the respondents are causing trouble, the petitioner is before this Court with the present writ petition for the relief aforesaid.

3. Heard Mr.V. Lakshmi Narayanan, learned counsel for the petitioner, Mr. Subbarayalu, learned counsel for the 1st respondent and Mr.Ramkumar, learned counsel for the 2nd respondent.

4. A perusal of the records, especially, the notice dated 21.09.2016 would show that it is bereft of any details regarding the extent of encroachment alleged to have been made by the petitioner and therefore, the 2nd respondent is directed to take measurement of the portion alleged to have been encroached by the petitioner and thereafter, he is directed to give notice to the petitioner, along with the details regarding the alleged encroachment said to have been made by the petitioner on the railway land and proceed further in accordance with law. Till proceedings are initiated and concluded by the 2nd respondent, status quo, as on date, shall be maintained by both parties.

Further, the respondent Railways is directed not to interfere with the petitioner's use of public road leading to his property. The writ petition is disposed of with the above direction. No costs. Connected W.M.P. is closed.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

nv

To

1. The Commissioner,
Hosur Municipality,
Hosur - 635 109.
2. Divisional Railway Manager,
South Western Railway,
Bangalore Division Office
Works Branch,
Bangalore - 23.

1 cc to Mr.V. Raghavachari, Advocate, Sr. 63680

1 cc to Mr.P.T. Ramkumar, advocate, Sr. 64106

W.P. No. 37017 of 2016

CA (CO)
kk 30/11

सत्यमेव जयते

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