

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.02.2016

CORAM:

THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI
and
THE HON'BLE MR.JUSTICE M.VENUGOPAL

W.P. No.4485 of 2016
and
W.M.P. No.3823 of 2016

B.Ilayaraja

...Petitioner

vs.

1.The State of Tamil Nadu
rep. by the Secretary to the Government,
Highways Department,
Fort St. George, Chennai - 9.

2.The District Collector,
Cuddalore District,
Cuddalore.

3.The Assistant Engineer,
Highways Department,
Tittakudi, Cuddalore District.

4.The Tahsildar,
Tittakudi, Cuddalore District.

5.Rajaram

6.Revathi

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing respondents 3 and 4 to remove the encroachments made by respondents 5 and 6 in S.No.89 in T.Agaram Village, Pennadam Post, Tittakudi Taluk, Cuddalore District, as per the representation of the petitioner dated 01.06.2015.

For Petitioner .. Mr.T.Sezhian

For Respondents .. Mr.P.S.Sivashanmugha Sundaram,
Spl. Govt. Pleader for R1 to R4
R5 and R6 - Not ready in notice

ORDER

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

With the consent of the learned counsel for the petitioner and the learned Special Government Pleader appearing for respondents 1 to 4, the writ petition is taken up for final disposal. On 05 February 2016, notice was ordered to respondents 5 and 6. Yet, it has not been served on them. Since no adverse order is passed against them, this writ petition is taken up for final disposal, without hearing them.

2.The petitioner, who is stated to be owner of the land in S.No.16/1A on Pennadam-Thazhanallur State Highway, has filed a civil suit in O.S.No.118 of 2011 on the file of Additional District Munsif, Tittakudi for declaration of title and for an injunction restraining respondents 5 and 6 from obstructing his approach to the road and the suit was decreed in his favour on 06 October 2012. Despite the decree, respondents 5 and 6 continued to obstruct the passage and hence the petitioner made representations to the Revenue Divisional Officer and the fourth respondent/Tahsildar, seeking removal of encroachment.

3.Considering the representation of the petitioner, the Assistant Engineer, Highways Department, Tittakudi/third respondent herein, had already initiated action, as is evident from the communication dated 17 August 2015 addressed to the Tahsildar, Tittakudi, whereunder it is stated that two persons have made encroachments, as represented by the petitioner and as such, a land Surveyor be deputed to identify and demarcate the area in question. Thereafter, nothing has happened in the matter. Hence the petitioner made a further representation dated 01 June 2015 to respondents 1 to 3. Since no action has been taken till date, pursuant to the said representation, the petitioner has filed the instant writ petition, seeking a limited relief of a direction to respondents 3 and 4 to consider his aforestated representation and take appropriate action.

4.Considering the limited nature of the relief sought by the petitioner, we direct the third respondent to consider and pass orders on the petitioner's representation dated 01 June 2015 on its own merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of this order. Needless to state that the alleged encroachers, viz., respondents 5 and 6 shall be given a due opportunity of hearing before orders are passed on the petitioner's representation.

5.With the above direction and observation, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

1.The Secretary to the Government,
Highways Department,
Fort St. George, Chennai - 9.

2.The District Collector,
Cuddalore District,
Cuddalore.

3.The Assistant Engineer,
Highways Department,
Tittakudi, Cuddalore District.

4.The Tahsildar,
Tittakudi, Cuddalore District.

+1cc to M/S.R.Subramanian, Advocate, S.R.No.10737
+1cc to the Government Pleader, S.R.No.10763

W.P. No.4485 of 2016

WEB COPY

ak(CO)
srg(01/03/2016)