

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.03.2016

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THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.5817 of 2016
and
WMP.No.5165 of 2016

Bhuvaneswari

... Petitioner

vs.

1.The District Collector,
Erode District,
Erode.

2.The Tahsildar,
Anthiyur Taluk, Anthiyur,
Erode District.

3.The Associate Professor/Chairman,
Burgur Cow Research Centre,
Annamadura,
Katchampalayam Post,
Anthiyur Taluk,
Erode District.

4.The Registrar,
Veterinary University,
Madhavaram Colony,
Madhavaram,
Chennai - 51.

... Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of mandamus forbearing the respondents from laying either trespassing or doing any work in the petitioner's private land in R.S.No.2414/7 situated at Burgur Village, Anthiyur Taluk, Erode District to the extent of one acre under the registered sale deed dated 22.06.2009.

For Petitioner : Mr.C.Prakasam
For R1 & R2 : Mr.P.Sanjay Gandhi, AGP
For R4 : Mr.S.Vijaya Kumar

ORDER

The petitioner has come up with the present writ petition for a mandamus, forbearing the respondents from laying either trespassing or doing any work in the petitioner's private land in R.S.No.2414/7 situated at Burgur Village, Anthiyur Taluk, Erode District to the extent of one acre under the registered sale deed dated 22.06.2009.

2. It is the case of the petitioner that he purchased the land in R.S.No.2414/7 situated at Burgur Village, Anthiyur Taluk, Erode District to an extent of one acre under the registered sale deed dated 22.06.2009. Since then, he has been in enjoyment of the same by cultivating agricultural crops. While so, on 10.02.2016, the respondents 2 and 3 officials came to his land with Bull Dozer and they laid down a mud pathway across his land by breaking open the fence put up around his land. When he enquired about the same, the second respondent informed that a Burgur Cow Breed Centre is proposed to be established nearby his land. He also came to understand that the respondents are taking steps to lay the bitumen road across his land. According to the petitioner, if the respondents are allowed to do so, he cannot use his agricultural land by cultivating crops. Therefore, the petitioner is before this court with the present writ petition for the above stated relief.

3. Learned counsel for the petitioner submitted that the respondents laid down the mud pathway across the petitioner's land, without any notice to the petitioner and without following the procedure laid down under the provisions of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013 (Central Act 30 of 2013). It is also submitted that as the land in question is a private land, the respondents ought to have issued notice and provided compensation as per law, to the petitioner, before taking such action.

4. Resisting the contention so raised by the learned counsel for the petitioner, learned Additional Government Pleader appearing for the respondents 1 and 2 submitted that the disputed land is the Government land and is not the private land as claimed by the petitioner. In that event, there is no necessity for the Government to inform the same to the individual, before taking any action.

5. Heard the rival submissions made on either side and perused the materials placed before this court.

6. It is the specific case of the petitioner that the

land in question is belonging to him and he is doing cultivation in the same and the respondents without issuing any notice and without providing compensation to him, laid down the mud pathway across the same, by destroying the agricultural crops. Whereas, the learned Additional Government Pleader appearing for the respondents 1 and 2 submitted that the land is the Government land. In my considered view, such disputed issues cannot be gone into by this court in this writ petition and the same can be determined only by a civil forum on analysis of oral and documentary evidence, after full fledged trial. In the writ petition, this Court cannot conduct a roving enquiry upon the materials produced on either side, by exercising its power under Article 226 of the Constitution of India. Therefore, the relief sought for in this writ petition cannot be granted.

7. In the result, the writ petition is dismissed. However, the petitioner is at liberty to approach the civil court concerned by filing a civil suit, if he is so advised. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1.The District Collector,
Erode District, Erode.

2.The Tahsildar,
Anthiyur Taluk, Anthiyur,
Erode District.

3.The Associate Professor/Chairman,
Burgur Cow Research Centre,
Annamadura, Katchampalayam Post,
Anthiyur Taluk, Erode District.

4.The Registrar,
Veterinary University,
Madhavaram Colony, Madhavaram, Chennai - 51.

+1 cc to Mr.S.Vijayakumar, Advocate, sr.14470

+1 cc to M/s.C.Prakasam, Advocate, sr.15114

+1 cc to The Government Pleader, sr.14657

W.P.No.5817 of 2016

ug co, kra 23.03.2016