

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.04.2016

CORAM

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

W.P. No.6387 of 2016

K.Abdulhameed .. Petitioner

Vs.

1.The District Collector,
District Collectorate Office,
Coimbatore.

2.The Commissioner,
Pollachi Municipality,
Pollachi - 642 001.

3.The Tahsildar,
Taluk Office,
Pollachi - 642 001.

4.The Divisional Engineer,
Highway Department,
Kovai Road, Pollachi - 641 001.

5.S.P.Vasanthi .. Respondents

Petitions filed under Article 226 of The Constitution of India praying for the issuance of a writ of mandamus directing the respondents 1, 2, 3 and 4 to demolish the construction made in the common pathway of the petitioners land by the fifth respondent and to remove the encroachment which adjoins the petitioner's house and road which affects his pathway based on the representation made by the petitioner dated 18.12.2015.

For Petitioner .. Mr.Murugesh Kasivel

For Respondents .. Ms.A.Srijayanthi,
Spl. Govt. Pleader for R1, R3 and R4
Mr.A.S.Thambusamy for R2
Ms.M.Kayalvizhi
for Mr.N.Ramesh for R5

ORDER

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

Ms.A.Srijayanthi, learned Special Government Pleader accepts notice on behalf of respondents 1, 3 and 4. Mr.A.S.Thambusamy, learned counsel, accepts notice on behalf of the second respondent and Ms.M.Kayalvizhi, learned counsel, accepts notice on behalf of the fifth respondent. Thus, with the consent of the learned counsel appearing for the parties, the writ petition is taken up for final disposal.

2.The petitioner, who is stated to be a resident of Pollachi Town, has filed the instant writ petition, seeking a direction to respondents 1 to 4 to demolish the construction made in the common pathway of his land by the fifth respondent and to remove the encroachment which adjoins his house and road.

3.Taking note of the allegations, this Court passed the following order on 22 February 2016:

"It is brought to our notice that in Pollachi Town, all the common pathways are under encroachment. The authorities are not taking steps despite representations made by others including the petitioner. The Commissioner, Pollachi Municipality, Pollachi, is directed to have a spot inspection of all common pathways in the Pollachi Town and submit a report as to the status of encroachment in all pathways and particularly, the encroachment in question. The Commissioner is also required to state as to what actions have been taken against the encroacher on the pathway meant for public usage, within a period of two weeks. Call on 07.03.2016."

4.In response, which came belatedly, it is stated that the inspection has been carried out in the entire property by the Town Surveyor with the Commissioner himself and on inspection, temporary encroachments were found and the same were duly removed. In certain cases, where the encroachment is not temporary, notices under the provisions of Section 182 of the Tamil Nadu District Municipalities Act, 1920, were issued on 28 March 2016. Except three, others declined to accept notices. The refusal to accept the notices amounts to acceptance of notices as well as the contents made therein. The second respondent had already initiated action for removal, which will be completed within a period of one week from today. It is further stated

that certain encroachments are made on the Highways, which comes within the jurisdiction of State Highways.

5.Mrs.A.Srijayanthi, learned Special Government Pleader appearing for respondents 1, 3 and 4 fairly submits that notices will be issued immediately to the encroachers and proper opportunity will be afforded to them. Thereafter, action for removal of the encroachment will be taken within a period of three weeks from today.

6.The aforestated submission of the learned Special Government Pleader is recorded.

7.With the aforestated observation, the writ petition stands disposed of. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1.The District Collector,
District Collectorate Office,
Coimbatore.

2.The Commissioner,
Pollachi Municipality,
Pollachi - 642 001.

3.The Tahsildar,
Taluk Office,
Pollachi - 642 001.

4.The Divisional Engineer,
Highway Department,
Kovai Road, Pollachi - 641 001.

+1 cc to Mr.A.S.Thambuswamy, Advocate, sr.23907

+1 cc to Mr.N.Ramesh, Advocate, sr.22014

W.P. No.6387 of 2016

ad co

kra 26.04.2016