

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.03.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No. 7245 of 2016

and

WMP. No. 6447 of 2016

Sri Kshipra Ganapathy Thiru Koil Trust
Rep. by its Managing Trustee
T. Srinivasan Petitioner

vs.

1 The District Collector
Kancheepuram Kancheepuram District

2 The Thasildar
Tiruporur
Tiruporur Taluk
Kancheepuram District

3 Farm Grove Srinivasa Nagar
Owners & Residents Welfare Association
Rep by its Secretary
Plot No.188-189 Farm Grove
Old Mahabalipuram Road
Kazhipathur Village
Kancheepuram District

... Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of Mandamus, directing the respondents 1 & 2 to take appropriate action as against the third respondent Association not to put up any grill gate or obstructing the free usage of 40 feet wide public road situated on the Eastern Side of the said Old Mahabalipuram Road at Farm Grove, Srinivasa Nagar, Kazhipathur Village, Kancheepuram District and pass further orders.

For Petitioner : Mr. S. Udayakumar

For Respondents 1&2 : Mr. V. Jayaprakash Narayanan
Special Govt. Pleader

ORDER

The petitioner has come up with the present writ petition for a mandamus, directing the respondents 1 & 2 to take appropriate action as against the third respondent Association not to put up any grill gate or obstructing the free usage of 40 feet wide public road situated on the Eastern Side of their property.

2. The petitioner, being the Managing Trustee of the aforesaid Trust, formed a lay-out called "Farm Grove" which is situated at Kazhipathur and Padur Village in Tiruporur Taluk, Kancheepuram District. At the time of forming the lay out, a 40 ft. wide road was provided, leading from East to West on Old Mahabalipuram Road, which connects three villages, Kazhipathur Village, Padur Village and Pudupakkam. At the request of the village people, the petitioner Trust had executed a gift deed in favour of Kazhipatur Village Panchayat and gifted the 40 ft. road for common usage under Gift Deed dated 08.08.2007 vide Document No. 8187 of 2007. They also executed another gift deed dated 08.08.2007 in favour of Kazhipathur Village and registered under Document No. 8188 of 2007. The 40 ft. road has become a public road, by virtue of gift to village panchayat. The plot owners/ property owners in Farm Grove are entitled to use as public road apart from the aforesaid village people. In fact, the village people are using this road for several years. The 3rd respondent, Farm Grove Srinivasa Nagar Owners and Residents Welfare Association is also using the said road.

3. Learned counsel for the petitioner further submitted that all of a sudden, the Secretary of the 3rd respondent Association, is attempting to put up a grill gate to obstruct the public to enter the Ganapathy Temple, constructed during 2006. The conduct of the 3rd respondent is malafide in nature. Hence, a representation was given to the respondents 1 and 2 on 21.02.2016. But no action was taken on the representation. Therefore, the petitioner has filed the present writ petition for the above stated relief.

4. Heard the learned counsel for the petitioner and the learned counsel appearing for the respondents 1 and 2.

5. In view of the submissions made above, this Court permits the petitioner to submit a fresh representation along with a copy of this order to the second respondent within a period of one week from the date of receipt of a copy of this order. On filing of such representation, the second respondent is directed to consider the same, by affording an opportunity of personal hearing to the petitioner as well as the third respondent and pass appropriate orders within six weeks

thereafter. It is made clear that this Court is not expressing any opinion with regard to the merits of the claim made by the petitioner and it is for the second respondent to pass appropriate orders purely on merits and in accordance with law.

6. The writ petition is disposed of accordingly. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

avr

To

1 The District Collector
Kancheepuram Kancheepuram District

2 The Thasildar
Tiruporur, Tiruporur Taluk
Kancheepuram District.

+1cc to M/s. S. Udayakumar, Advocate, S.R.No.13088

+1cc to the Government Pleader, S.R.No.13243

RSK(CO)
EU(24/03/2016)

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