

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.03.2016

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.8871 of 2016

R.Sivanandam

... Petitioner

Vs.

1.The District Collector,
District Collectorate Building,
Dheerran Chinnamalai Maaligai,
Perundurai Road,
Erode-638 011.

2.The Revenue Divisional Officer-cum-
Executive Magistrate,
Erode Revenue Division,
Revenue Divisional Office,
Brough Road,
Erode-638 001.

3.C.Saravanan

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the 2nd respondent to conduct an enquiry and pass suitable orders expeditiously after considering the petitioner's representation dated 03.03.2016 by affording him an opportunity of fair hearing in accordance with law.

For Petitioners : Mr.C.E.Pratap

For respondents : Mr.V.Jayaprakash Narayanan, Spl. GP.

ORDER

This writ petition has been filed by the petitioner praying for issuance of a Writ of Mandamus, directing the 2nd respondent to consider the petitioner's representation dated 03.03.2016 and to conduct an enquiry and pass suitable orders expeditiously, in accordance with law.

2.In the affidavit filed in support of the writ petition, it has been averred by the petitioner as follows_

2-1.The petitioner is residing at No.36, Dheeran Chinnamalai Street, Asokapuram, Veerappan Chathiram, Erode, in a Roof Titled House constructed during the year 1993. The petitioner is in the possession and enjoyment of the said house by virtue of Settlement Deed No.5074/2012, dated 20.09.2012 registered at Erode District Registrar's Office. The said Settlement Deed was executed in his favour by his elder brother Mr.R.Rajendran, after the death of his father V.M.Ramasamy in the year 2010. The locality in which the petitioner's house is situated is purely a residential area where houses are closely situated one after another. Ever since the construction of the said house, the petitioner is living with his family members without any disturbance from any one.

2-2.While so, the 3rd respondent herein, who is having his house constructed at the southern side of the petitioner's house, has now demolished the said house and started to construct a building to put up a power loom in the said place. The boulder wall of the said building, which is under construction by the 3rd respondent, is very low in height and the said building is straightly facing towards the south side portion of the petitioner's house, blocking the entire access of free air. In flagrant violation of the statutory provisions, the 3rd respondent is conducting the power loom in the said place. According to the petitioner, if the height of the boundary wall of the building, which is under construction by the 3rd respondent, is not raised on the southern side of the petitioner's house, it will lead to serious nuisance and cause breach of peace to the petitioner and his family members. Further, the petitioner will be deprived of his freedom of residing in the house without any annoyance and moreover, proper ventilation will be obstructed by the act of the 3rd respondent. Despite the petitioner's request to raise the height of the wall on the southern side, the 3rd respondent did not accept to do so; rather, he is indulging in unnecessary wordy quarrel with the petitioner. Hence, the petitioner made a representation dated 03.03.2016 to the 2nd respondent seeking to take necessary action by conducting an enquiry. Since the petitioner's representation was not considered by the respondent, the petitioner has filed the present writ petition for the relief as stated supra.

3.Heard both sides and perused the materials available on record.

4.Considering the limited scope of the prayer sought for in the writ petition, without expressing any opinion on the claim of the petitioner, this Court directs the 2nd respondent to consider the representation dated 03.03.2016 given by the petitioner and pass appropriate orders, after affording opportunity of personal hearing to the petitioner as well as

to all other necessary parties, if any, on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order.

With the above direction, the writ petition is disposed of.

No costs.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

ssv

To

- 1.The District Collector,
District Collectorate Building,
Dheerran Chinnamalai Maaligai,
Perundurai Road,
Erode-638 011.
- 2.The Revenue Divisional Officer-cum-
Executive Magistrate,
Erode Revenue Division,
Revenue Divisional Office,
Brough Road,
Erode-638 001.

+1 cc to M/s.C.E.Pratap, Advocate, sr.15254
+1 cc to The Government Pleader, sr.15713

सत्यमेव जयते

W.P.No.8871 of 2016

mp co
kra 31.03.2016

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