

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.03.2016

CORAM:

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

W.P. No.9882 of 2016

The Order of the Servants of Mary
represented by its Secretary
Fr. Francis Xavier OSM
Jothi Matha Aalayam
No.5/301, Matha Koil Street
Rajeev Gandhi Road
Okkiyampet
Chennai 600 097

Petitioner

Vs.

- 1 The District Collector
Kancheepuram District
Kancheepuram
- 2 The Tahsildar
Sozhinganallur Taluk
Kancheepuram District
- 3 The Commissioner
Corporation of Madras
Chennai 600 003
- 4 N. Kumar
- 5 N. Ramachandran
- 6 N. Jothi
- 7 N. Mani

Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of mandamus directing the respondents 1 to 3 to take necessary action against the encroachers, particularly, against respondents 4 to 7 for removal of encroachments from the 40 ft. road width Madha Koil Street, Okkiam Thoraipakkam Village, Sholinganallur Taluk, Kancheepuram District, on the basis of the petitioner's representation dated 26.02.2016.

For petitioner Mr. B. Kandhan
For RR 1 & 2 Mr. P.S. Sivashanmugasundaram
 Special Government Pleader
For R3 Mr. A. Nagarajan, Standing Counsel

ORDER

(delivered by SATISH K. AGNIHOTRI, J.)

Mr. P.S. Sivashanmugasundaram, learned Special Government Pleader, accepts notice for respondents 1 and 2. Mr. A. Nagarajan, learned Standing Counsel, accepts notice for the third respondent. Notice to the private respondents is dispensed with at this stage, inasmuch as no order prejudicial to their interest is passed in this writ petition. Thus, with the consent of the learned counsel for the petitioner, learned Special Government Pleader appearing for respondents 1 and 2 and the learned Standing Counsel for the third respondent, the writ petition is taken up for final disposal, at the admission stage itself.

2 This writ petition is filed seeking a writ of mandamus directing the respondents 1 to 3 to take necessary action against the alleged encroachers, particularly, respondents 4 to 7 for removal of encroachments from Madha Koil Street, Okkiam Thoraipakkam Village, Sholinganallur Taluk, Kancheepuram District, which is 40 ft. wide, on the basis of the petitioner's representation dated 26 February 2016.

3 The petitioner is a society registered under the Societies Act. According to the petitioner society, it has been in possession and enjoyment of the property in question, which is abutting a 40 ft. public road and the said property was acquired by it by way of a sale deed dated 09 October 1988. Further, according to the petitioner society, alongside its property, there are several other houses as well. Access to these houses and also the petitioner society is only through the said 40 ft. public road. While so, some persons, including the private respondents, are trying to obstruct the said public road by constructing shops and houses illegally, sans approval, due to which act, access to the petitioner society and also other houses is obstructed. Hence, seeking removal of those encroachments, the petitioner society has addressed a representation dated 26 February 2016 to the official respondents. Feeling aggrieved by the inaction on the part of the authorities, the instant writ petition is filed seeking the aforestated relief.

4 Considering the limited scope of the relief sought by the petitioner, without going into the merits of the case, we direct the official respondents to take appropriate action on the

petitioner's representation dated 26 February 2016 on its own merits and in accordance with law, within a period of six weeks from the date of receipt of a copy of this order. Needless to state, an opportunity of hearing be afforded to the alleged encroachers, including the private respondents, before taking any consequential action, if need be.

The writ petition stands disposed of with the above direction and observation. Costs made easy.

Sd/-

Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

cad

To

1 The District Collector
Kancheepuram District
Kancheepuram

2 The Tahsildar
Sozhinganallur Taluk
Kancheepuram District

3 The Commissioner
Corporation of Madras
Chennai 600 003

1 cc to Mr.R. Thanjan, Advocate, Sr. 17831

1 cc to Government Pleader, Sr. 17389

1 cc to Mr.A. Nagarajan, Advocate, Sr. 17211

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