



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.12.2016

CORAM:

THE HONOURABLE MR. JUSTICE K. RAVICHANDRABAABU

W.P(MD)No.251 of 2015

and

M.P(MD)No.1 of 2015

J.Antonyraj

.. Petitioner

Vs.

1.The District collector,
Tuticorin,
Tuticorin District.

2.The Commissioner,
Tuticorin Municipal Corporation,
Tuticorin.

3.The Tahsildar,
Thoothukudi,
Thoothukudi Dist.

4.The Inspector of Police,
Thalamuthunagar Police Station,
Tuticorin,
Tuticorin District.

5.Singarayan

6.Dhanaraj

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the 1st respondent to issue suitable directions to the 2nd and 3rd respondents herein to remove the obstructions and encroachments in Survey No. 112 and 128 situated at Tuticorin, Loorthammalpuram, Tuticorin District based on the petitioner's representation dated 25.11.2014 which was posted on RPAD on 15.12.2014.

For Petitioner	: Mr.S.Muthalraj
For R1,R3 & R4	: Mr.A.Muthukaruppajn Additional Government Pleader
For R2	: Mr.S.Saji Bino
For R5 & R6	: Mr.G.Prabhu Rajadurai

ORDER

This writ petition is filed seeking for a Mandamus directing the first respondent to issue suitable directions to the 2nd and 3rd respondents to remove the obstructions and encroachments in Survey Nos. 112 and 128 situated at Tuticorin Loorthammalpuram, Tuticorin District, based on the petitioner's representation, dated 25.11.2014.



2. The grievance of the petitioner is that the respondents 5 and 6 have made some encroachments in a road and therefore, such encroachments have to be removed by the official respondents.

3. In the counter affidavit filed by the respondents 2, 4, 5 and 6, it is stated that the layout formed by the concerned parties was not an approved one and therefore, the road alleged to have been encroached was not left to the public authorities so as to declare the road as the public road. In other words, it is the contention of the official respondents that the grievance of the petitioner is purely a private dispute between himself and the 5th and 6th respondents, which has to be agitated only before the competent civil Court.

4. As I find from the above narrated facts and circumstances that the dispute raised by the petitioner herein is purely a civil dispute, also between private parties, the same has to be agitated only before the competent civil court. Therefore, the petitioner cannot maintain this writ petition when the road alleged to have been encroached is not a public road at all. Therefore, this writ petition is dismissed, however, by granting liberty to the petitioner to agitate the matter before the competent civil court by filing appropriate civil suit. Though the contesting respondents 5 and 6 are not accepting the allegation of encroachment and contended that there is no encroachment at all, all these contentions have to be gone into only by the civil Court. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

1. The District collector,
Tuticorin,
Tuticorin District.
2. The Commissioner,
Tuticorin Municipal Corporation,
Tuticorin.
3. The Tahsildar,
Thoothukudi,
Thoothukudi Dist.



4. The Inspector of Police,
Thalamuthunagar Police Station,
Tuticorin,
Tuticorin District.

+1cc to Mr.S.Muthalraj, Advocate SR No 82415
+1cc to Mr.G.Prabhu Rajadurai Advocate SR No 82616
+1cc to Special Government Pleader SR No 82958

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W.P(MD)No.251 of 2015
21.12.2016