

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.06.2017

CORAM

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

W.P.No.15999 of 2017
and W.M.P.No.17289 of 2017

K.Veerappa Gounder

.. Petitioner

Vs.

1. The District Collector,
Erode & District.

2. The Block Development Officer,
Union Office,
Bhavani (BDO Office)
Bhavani-638 301.

.. Respondents

Writ petition filed under Article 226 of the Constitution of India praying for to issue any writ, Order specially Writ of Mandamus, directing the respondents to stop laying of 24 feet Tar Road, encroaching the Koppu Vaaikaal (Lower Bhavani Project) and the petitioners agricultural land in Rs. No. 766/01 of Kavunthavadi Village, Bhavani Taluk, Erode District and to consider the petitioners representation dated 29.03.2017.

For Petitioner :M/s.D.Asenthamani.

For Respondents :Mr.K.J.Siva Kumar,
Govt. Advocate for R1
Mr.C.C.Rangarajan,
Govt. Advocate for R2

O R D E R

The petitioner has made a representation to the second respondent inter alia alleging that a road is being laid over the property owned by him. Reliance has been made on the decree for partition rendered in O.S.No.232 of 2002 dated 17.12.2002. Since the process continuous even thereafter, the present writ petition has been filed.

2.The learned counsel appearing for the petitioner submits that without following the due process, the road is being laid over the land belonging to the petitioner.

3.The learned Government Advocate appearing for the second respondent submitted that in the absence in any material to substantiate the factum qua the ownership, no interference required.

4.The question as to whether the petitioner is the owner of the property over which the road is allegedly being laid is a disputed question of fact. Therefore, this Court cannot go into it in exercise of power under Article 226 of the Constitution of India being a discretionary remedy. The partition deed per se cannot bind the respondents being not parties to it. However, taking into consideration of the fact that the petitioner's legal notice dated 11.04.2017 despite being acknowledged has not been replied to by the second respondent, the said authority is directed to pass appropriate orders within a period of two weeks from the date of receipt of a copy of this order. Till such time, Status Quo as on today shall be maintained.

5.With the above observation, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

-s/d-
Assistant Registrar (CS-V)

True Copy

Sub-Assistant Registrar

To

1. The District Collector,
Erode & District.
2. The Block Development Officer,
Union Office,
Bhavani (BDO Office)
Bhavani-638 301.

+2 Ccs to Mr.D. Asenthamani, Advocate sr 44449

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RJ (CO)
sp/28/6