

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 07.11.2017

CORAM

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN
and
THE HONOURABLE MR. JUSTICE N.SESHASAYEE

W.P.No.19635 of 2016
and
W.M.P.No.16995 of 2016

D. Jayasankaran ... Petitioner

Versus

1. The Commissioner
Corporation of Chennai
Ripon Building
Park Town
Chennai 600 003
2. The Assistant Engineer (Civil)
Corporation of Chennai
Kottur
Chennai 600 085
3. The Inspector of Police
J4, Kotturpuram Police Station, Law & Order
Kottur
Chennai 600 085
4. N.Manoharan
President
Arulmighu Raja Vinayagar Temple
Pondicherry Road, Kottur
Chennai 600 085. ... Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the Respondents 1 and 2 herein to forthwith take action against the 4th Respondent and stop construction / Compound Wall being put up by the 4th Respondent around Arulmighu Raja Vinayagar Temple situate in front of the Petitioner's property bearing Door No.11/12, Pondicherry Road, Kottur, Chennai-85.

For Petitioner : Ms. A.L.Ganthimathi

For Respondents : Mr.A.Nagarajan for RR1 & 2
Mr. M.E. Raniselvam
Additional Government Pleader for R3
Mr. N. Manokaran for R4

ORDER

[Order of the Court was made by M.SATHYANARAYANAN, J]

The petitioner seeks for issuing a Mandamus to direct the respondents 1 and 2 herein to forthwith take action against the 4th Respondent and to stop the construction/Compound Wall being put up by him around Arulmighu Raja Vinayagar Temple situate in front of the Petitioner's property bearing Door No.11/12, Pondicherry Road, Kottur, Chennai - 600 085.

2. It is the case of the petitioner that he is residing at Door No.11/12, Pondicherry Road, Kottur, Chennai - 600 085 and right in front of his house, the fourth respondent is putting up a compound wall, by encroaching his property, thereby his right to ingress and egress from and out of his property is adversely affected. According to the petitioner, the representations dated 30.05.2016 sent to the first and second respondent in this regard, did not met with any response and therefore, he has come forward with this writ petition.

3. The learned counsel appearing for the petitioner drawn the attention of this Court to the counter affidavit filed on behalf of the respondents 1 and 2 which says that the fourth respondent was directed to demolish the offending portion of the compound wall within seven days. According to the learned counsel for the petitioner, even though the offending compound wall has been demolished, the fourth respondent is once again attempting to re-construct the compound wall and therefore, she prayed for issuing appropriate direction to the respondents 1 and 2.

4. The learned counsel appearing for the respondents 1 and 2, relying upon the counter affidavit of the respondents 1 and 2, would submit that an inspection has been carried out by the Assistant Engineer, Unit - 40 and the Assistant Engineer, Division - 171, Unit - 40, Zone XIII of Greater Chennai. After inspection, the inspecting authorities have instructed the fourth respondent to demolish the offending portion of the compound wall within 7 days failing which the Corporation will demolish it at the cost of the fourth respondent. Therefore, according to the learned counsel for the respondents 1 and 2, the respondents 1 and 2 have acted upon on the basis of the complaint given by the petitioner and no further direction is necessary to be issued in this writ petition.

5. The learned Additional Government Pleader appearing for the third respondent would submit that the offending compound wall has been demolished by the respondents 1 and 2 with the police aid provided by the third respondent.

6. In the light of the stand taken by the respondents 1 and 2 in the counter affidavit, nothing survives in this writ petition for adjudication. However, it is made clear that if the petitioner is aggrieved by any further attempt by the fourth respondent to put up a compound wall or in any manner put up any other construction, liberty is given to the petitioner to approach this Court for ventilating his grievance. Accordingly, the writ petition is closed. No costs. Consequently, connected miscellaneous petition is closed.

rsh/kas

sd/
ASSISTANT REGISTRAR

/TRUE COPY/

SUB-ASSISTANT REGISTRAR

To

1. The Commissioner
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J4, Kotturpuram Police Station, Law & Order
Kottur
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+1CC to Mr.A.L.Ganthimathi Advocate SR.NO.78924
+1CC to Mr.A.Nagarajan Advocate SR.NO.78906
+1CC to Govt Pleader SR.NO.79295

WP No. 19635 of 2016

[co]
MK:29/11/2017