

PIN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.11.2017

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR.JUSTICE N.SESHASAYEE

W.P.No.28678/2017 & W.M.P.No.30857/2017

1 B.Rajesh
2 N.Mohan Raj
3 Yamunabai Petitioners
vs
1 The District Collector,
Coimbatore District,
Coimbatore.
2 The Block Development Officer,
Makkinampatti Panchayat,
Panchayat Union,
Pollachi (South).
3 Moulana Azad ... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for a writ of mandamus or any other appropriate writ or order or direction in the nature of the writ, directing the first and second respondents to dispose of the petitioner's representation dated 28.08.2017, to inspect the petition premises and stop the unauthorized and illegal construction carried out by the third respondent at the Northern side of Krishnasamy Gounder Street leading to Pollachi-Udumalai Salai, comprised in S.No.19/1, and demolish the structure and restore the 30 feet public road leading to the Pollachi Udumalaisalai.

For Petitioner : Mrs.Auxilia Peter
For R1 : Mrs.M.E.Rani Selvam, AGP
For R2 : Mr.R.Rajeswaran, Spl.GP

ORDER

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

By consent, the writ petition is taken up for final disposal. Mrs.M.E.RaniSelvam, learned Additional Government Pleader accepts notice on behalf of the 1st respondent; and Mr.R.Rajeswaran, learned Special Government Pleader accepts notice on behalf of the 2nd respondent.

2 The petitioners claim to be the residents of Thiruvalluvar Colony, Udumalai Road, Pollachi Taluk, Coimbatore and further, according to them, one P.Krishnasami Gounder, S/o.Palaniappa Gounder and K.Santhakumar, S/o.Krishnasami Gounder, owned lands comprised in S.F.No.19/1-B, ad measuring to an extent of 1 acre and 40 cents situate in Makkinampatti Village, Palani Road, Pollachi and the said land was converted as a layout by name "Palaniyappa Gounder Colony" and necessary approval was also accorded by the Local Body and on 02.07.1975, petitioners 1 to 3 had purchased the lands in the approved layout through the registered Sale Deeds bearing Doc.No.3716/1995 dated 27.09.1995 ; Doc.No.3988/1999 ; and Doc.No.2180/1975 dated 03.12.1975 respectively, registered on the file of the office of the Sub Registrar, Pollachi. The petitioners would further state that they had also put up superstructures after obtaining planning permission / approval and the said constructions are also in accordance with the sanctioned plan. The grievance expressed by the petitioners is that there is 30 feet road starting from Pollachi-Udumalai Road, leading to Thiruvalluvar Colony via Krishnasami Gounder Street and the said land which is being used as road, has been illegally purchased by one Abdul Salam from Krishnasami Gounder and his son Santhakumar, through a Sale Deed dated 18.04.1979. The 3rd respondent, who is the son of the said Abdul Salam, without any planning permission, whatsoever, has started putting up construction and in this regard, the petitioner has submitted a representation dated 28.08.2017 to the respondents 1 and 2 and in spite of receipt and acknowledgment, no action has been taken so far and hence, the petitioners came forward to file the present writ petition.

3 The learned counsel for the petitioners has drawn the attention of this Court to the typed set of documents and would submit that the 3rd respondent is putting up the construction on the public road and no encroachment can take place on the said public land and the 3rd respondent is also guilty of putting up unauthorised construction.

4 The Court heard the submissions of the learned Additional Government Pleader appearing for the 1st respondent and the learned Special Government Pleader appearing for the 2nd respondent and also perused the materials placed before it.

5 Though the petitioners had prayed for a larger relief, this Court, in the light of the above facts and circumstances and without going into the merits of the claim projected by the petitioner, directs the 2nd respondent to put the petitioner as well as the 3rd respondent on notice and thereafter, cause inspection of the land in question and depending upon the result of the same, shall take necessary further action in accordance with law within a period of eight weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner as well as to the 3rd respondent herein.

6 The writ petition stands disposed of with the above direction. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

AP

To

1 The District Collector,
Coimbatore District,
Coimbatore.

2 The Block Development Officer,
Makkinampatti Panchayat,
Panchayat Union,
Pollachi (South).

+1cc to the Government Pleader, S.R.No. 79614

+1cc to Mrs.Auxilia Peter Advocate, S.R.No. 79444

W.P.No.28678/2017

TR(06/12/2017)