

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 16.04.2018

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE P.RAJAMANICKAM

WP.No.9233/2018

V.Rajasekar

Petitioner

Versus

- 1.The District Collector
Collectorate, Namakkal.
- 2.The Revenue Divisional Officer
Namakkal Division, Namakkal.
- 3.The Tahsildar
Namakkal Taluk, Namakkal District.
- 4.The Block Development Officer
Mohanur Panchayat Union,
Namakkal District.

5.K.Kamaraj

Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus directing the 3rd respondent to remove the encroachment made by the 5th respondent in Public Pathway in Arunthathiyar Colony street, Komaripalayam village, Namakkal Taluk and District within a time frame to be fixed by this Court.

For Petitioner : Mr.R.Sivaram
For R1 to R4 : Mr.R.Udhayakumar, AGP

ORDER

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

By consent, the writ petition is taken up for final disposal. Mr.R.Udhayakumar, learned Additional Government Pleader accepts notice on behalf of the respondents 1 to 4.

2 The petitioner claims to be the owner of a certain extent of landed property in S.Nos.8/7 and 85 in Komaripalayam Village, Namakkal Taluk and Village. According to him, to reach the said property and other lands, a pathway of 12 feet South-North [Southern side of the Arunthathiyar Colony] of S.No.8/3, is being used and in this regard, a Civil Suit in OS.No.1468/1971 was also filed on the file of the Court of District Munsif, Namakkal and a compromise was reached and accordingly, a decree came to be passed on 25.01.1972. The grievance now expressed by the petitioner is that the 5th respondent, who is also a resident of Plot No.52 of Arunthathiyar Colony, started encroaching upon the said pathway, by constructing a compound wall and also making an outward projection in the form of Asbestos sheet. The petitioner, in this regard has also submitted a representation dated 04.04.2017 to the concerned official respondents and the office of the 1st respondent, vide Memo dated 24.04.2017 in O.Mu.No.10262/2017/L-3, has directed the 3rd respondent to look into the complaint and take appropriate action in terms of G.O.Ms.No.540, Revenue [LD 6[2]] Department dated 04.12.2014 and despite receipt and acknowledgment, the 3rd respondent is yet to take action despite the lapse of one year and prays for appropriate orders.

3 The Court heard the submissions of the learned counsel for the petitioner and the learned Additional Government Pleader appearing for the respondents 1 to 4 and perused the materials placed before it.

4 This Court, taking into consideration the above facts and circumstances and without going into the merits of the claim projected by the petitioner, directs the 3rd respondent to act upon the above cited communication of the 2nd respondent dated 24.04.2017 and shall cause inspection of the said area/land in question, within a period of four weeks from the date of receipt of a copy of this order and depending upon the result of the same, shall put the concerned person/s on notice and take appropriate action in accordance with law within a further period of ten weeks thereafter and communicate the decision taken, to the petitioner as well as to the person/s concerned.

5 The writ petition stands disposed of with the above direction. No costs.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

AP

To

1.The District Collector
Collectorate, Namakkal.

2.The Revenue Divisional Officer
Namakkal Division, Namakkal.

3.The Tahsildar
Namakkal Taluk, Namakkal District.

4.The Block Development Officer
Mohanur Panchayat Union,
Namakkal District.

+1cc to Mr.R.Sivaram, Advocate sr.no.27924

+1cc to Government Pleader in sr.no.28870

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nr 15/05/2018



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