

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 25.04.2018

CORAM

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE P.RAJAMANICKAM

W.P.No.10380 of 2018

K.Pious Mathews

.. Petitioner

Versus

1. The District Collector,
Thiruvallur District,
Thiruvallur 602 001

2.The Tahsildar,
Ambattur Taluk Office,
Ambattur, Chennai 600 053.

3.The Commissioner,
Avadi Municipality,
New Military Road,
Avadi, Chennai 600 004.

4.Jayamani

5.Jayaguru

6.Jacob

7.Rosalin Selvi

...Respondents

PRAYER:- Writ petition filed under Article 226 of the Constitution of India prays to issue a Writ of Mandamus directing the respondents 1 to 3 to consider the petitioner's representation dated 03.11.2017 sent to respondents 1 and 3 within a time frame as prescribed by this Hon'ble Court and to implement the order Na.Ka.EN.5018/20008/F2 and remove the encroachment in the 20 feet Road situated on the eastern side of the property.

For Petitioner :Mr.B.Deepak Narayanan

For Respondents :Mr.R.Udhayakumar for R1 & R2
MR.P.Srinivas for R3

ORDER

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

By consent, the writ petition is taken up for final disposal.

2. Mr.R.Udhayakumar, learned counsel accepts notice on behalf of the respondents 1 and 2. Mr.P.Srinivas, learned standing counsel accepts notice on behalf of the 3rd respondent.

3. The petitioner claims to be the absolute owner of the property situated at Plot No.25, Sabi Nagar III Street, Muthapudupet, Avadi IAF, purchased through a Sale Deed registered as Doc.No.2961 dated 13.07.1988. According to him, on the eastern side of the property, there is a 20 feet road and it has also been reflected in the Sale Deed dated 13.07.1998 as well as the Parent Sale Deed bearing Doc.No.4481/1983 dated 21.08.1983 registered on the file of the Office of Sub Registrar, Poonamallee.

4. It is the specific claim of the petitioner that the respondents 4 to 7, who claim to be the legal heirs of deceased viz., G.Edward, had encroached upon the 20 feet road on the eastern side of the property, it was objected by him. In this regard, the respondents 4 to 7 had filed O.S.No.420 of 2006 on the file of District Munsif Court at Ambattur against the petitioner herein praying for permanent injunction restraining the defendants or his men or agents from interfering with their peaceful possession or dispossess them except under due process of law. It is further averred that the same respondents had filed O.S.No.152 of 2008 against the respondents 2 and 3 as well as the petitioner praying for relief of permanent injunction restraining them from interfering with their peaceful possession and enjoyment of the property and also from demolishing the compound wall. According to the petitioner, both the suits after contest came to be dismissed on 10.08.2017. Challenging the same, appeal suits have been filed with delay and petitions for condonation of delay are yet to be moved for.

5. The learned counsel appearing for the petitioner would submit that in this regard, the petitioner had also obtained an information under Right to Information Act. It discloses that orders have been already passed to remove the encroachment and

in the light of the pending litigation, no action is taken. It is the further submission of the learned counsel for the petitioner that in the light of the dismissal of the suits filed by the private respondents, there cannot be any impediment on the part of the 3rd respondent to remove the encroachment, made by the respondents 4 to 7 after following due process of law and prays for appropriate orders.

6. This Court heard the submission of the learned counsel appearing for the petitioner and the learned counsel appearing for the official respondents.

7. This Court taking into consideration the above facts and circumstances and without going into the merits of the claims projected by the petitioner either in his representation or in this writ petition, is of the considered view that in the light of the dismissal of the suits, filed by the private respondents, there cannot be any impediment on the part of the 3rd respondent to proceed further to remove the encroachments in accordance with law subject to legal interdict, if any.

8. In the result, the 3rd respondent after putting the private respondents on notice shall cause removal of the encroachment committed by the petitioner in Plot No.25, Sabi Nagar III Street, Muthapudupet, Avadi IAF, in accordance with law. The said exercise is to be carried out within a period of eight weeks from the date of receipt of a copy of this order and communicate the decision to the petitioner as well as the respondents 4 to 7.

9. With the above directions, the writ petition stands disposed of. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1. The District Collector,
Thiruvallur District,
Thiruvallur 602 001

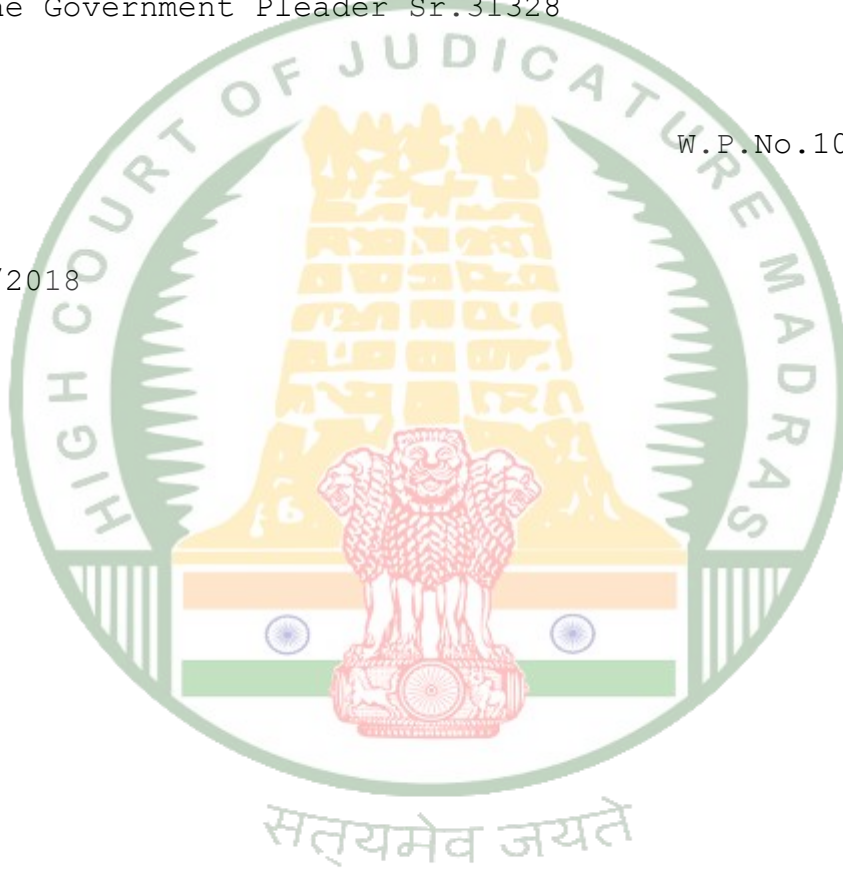
2.The Tahsildar,
Ambattur Taluk Office,
Ambattur, Chennai 600 053.

3.The Commissioner,
Avadi Municipality,
New Military Road,
Avadi, Chennai 600 004.

+lcc to M/S.P.Srinivas, Advocate Sr.31396
+lcc to M/S.B.DeepakNarayanan, Advocate Sr.31590
+lcc to the Government Pleader Sr.31328

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srg 25/05/2018



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