

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.04.2018

CORAM

THE HON'BLE Mr. JUSTICE S.M.SUBRAMANIAM

W.P.No.11326 of 2017

Ayaz Ahamed

...Petitioner

Vs

1. The District Collector,
Krishnagiri.
2. The Sub-Collector,
Hosur,
Krishnagiri.
3. Tamil nadu Handloom Weavers Co-operative Society,
Hosur,
Krishnagiri District.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ or order or direction, particularly in the nature of writ of mandamus to forbear the respondents from making any permanent structure in the stretch of land comprised in Survey No.747, Bagalur Main Road, Hosur, Krishnagiri District.

For Petitioner :Mr.P.Sesubalan Raja

For Respondents 1 & 2 :Mrs.A.Srijayanthi
Special Government Pleader

For Respondent 3 :Mr.V.Srikanth

ORDER

The relief sought for in this writ petition is for a direction to forbear the respondents from making any permanent structure in the stretch of land comprised in Survey No.747, Bagalur Main Road, Hosur, Krishnagiri District.

2. The learned counsel appearing for the writ petitioner states that the petitioner is running a shop in the premises bearing Door No.70/e/8, Hosur for the past several years. Near about 16 shops are situated adjoining to the shop belongs

to the writ petitioner. The land in survey No.747 is a Government land and the same has been classified as pattai (pattai means street). Therefore, the shops owners of that locality has got the legitimate expectation that the entire stretch is to be used as a pathway. Contrary to the expectations of the businessmen of that locality, the third respondent had proposed to construct a building in the said area and in the event of granting such permission, the ingress and egress of the petitioner would be affected.

3. The learned counsel appearing on behalf of the third respondent opposed the contentions of the writ petitioner by stating that the writ petition itself is not maintainable. The relief as such sought for to forbear the respondents from making any permanent structure cannot be granted in view of the fact that the third respondent is the absolute owner of the property and they are paying the property tax regularly and this apart, the building plan permission was also sanctioned by the competent authorities and the third respondent has entrusted the task of construction with the contractor. Thus, at this stage, the present writ petition filed by the writ petitioner to forbear the respondents from making any permanent structure cannot be granted by this Court. This apart, the writ petitioner is an alien in respect of the property in question and he has no title or authority to interfere with the property belongs to the third respondent. This apart, any grievance in respect of any public interest is to be addressed to the District Collector and therefore, the present writ petition cannot be considered at all.

4. This court is of an opinion that the relief as such sought for to forbear the respondents from making any permanent structure cannot be granted in the writ petition under the Article 226 of the Constitution of India. The rights and title in respect of the properties are to be established by adducing evidence and filing documents, before the competent court of law.

5. Contrarily, the writ petitioner has chosen to file the present writ petition in respect of certain civil rights, which cannot be entertained. This apart, on a perusal of the documents filed on behalf of the third respondent, the Government passed G.O.Ms.No.130 Revenue Department dated 06.03.2000, wherein the land in question has been reclassified and therefore, the same cannot be treated as street (Pattai). Further, the said land in Survey No.747 has already been allotted in favour of the third respondent and the third respondent also paid consideration for the property allotted.

6. The learned counsel for the respondents state that after conducting an enquiry, the authorities competent found that the said area is not at all a Pattai and therefore, the contention of the writ petitioner in this regard is incorrect.

7. The third respondent also filed the property tax payment receipts and receipts in respect of payment of development charges. The building plan permission order is also enclosed in the typed set of papers filed by the third respondent. This apart, the building plan, articles of agreement between the third respondent and the contractor dated 03.04.2017, also has been enclosed in the typed set of papers.

8. The learned counsel for the respondents state that on account of interim order granted by this Court, the third respondent is unable to proceed with the construction and now, there is an escalation of costs. This apart, the construction proposed to be put up is for the benefit of the public, at large. The third respondent being a co-operative society is catering the needs of the public of that locality and proposed construction is also for the benefit of the public. This being the factum of the case, the present writ petition deserves no further consideration.

9. This court is of an opinion that the writ petitioner has not claimed any ownership or otherwise in respect of the land in question. The only contention of the writ petitioner is that it was classified as pattai and therefore, the same should be left open for the usage of public at large. However, the Government Order issued in G.O.Ms.No.130, Revenue Department dated 06.03.2000, states that the said land in question is not at all a pattai and further, the land was allotted in favour of the third respondent. Consideration was also paid to the Government by the third respondent and now, the property tax is being paid continuously by the third respondent to the municipality concerned. This apart, the third respondent has already initiated steps to construct a building for the purpose of usage of the co-operative society.

10. This being the factum of the case, the writ petitioner has not established any valid legal ground for considering the relief as such sought for in this writ petition.

11. Accordingly, the writ petition stands dismissed.
However, there shall be no order as to costs.

s/d-

Assistant Registrar(CO)

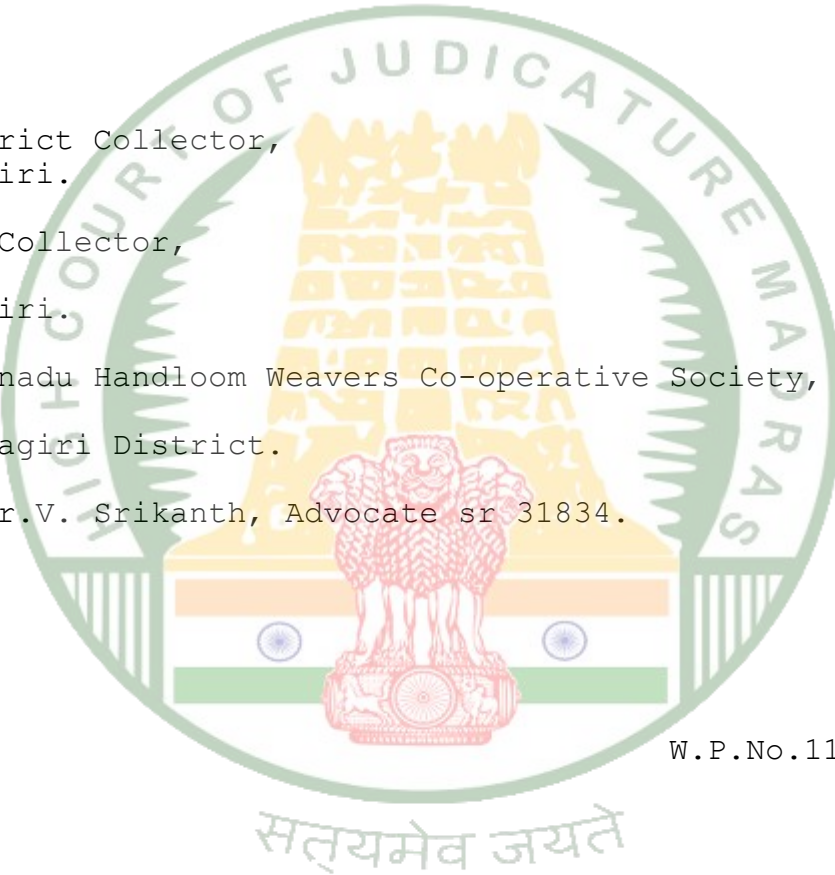
True Copy

Sub-Assistant Registrar

nl/kak

To

- 1.The District Collector,
Krishnagiri.
 - 2.The Sub-Collector,
Hosur,
Krishnagiri.
 3. Tamil nadu Handloom Weavers Co-operative Society,
Hosur,
Krishnagiri District.
- +1 CC to Mr.V. Srikanth, Advocate sr 31834.



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EV(CO)
SP(29/05/2018)

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