

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 20.04.2018

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE P.RAJAMANICKAM

WP.No.9959/2018

P.Chinnsamy

Petitioner

Versus

- 1.The District Collector
O/o.The District Collector
Uthagamandalam,
Nilgiris District.
- 2.The Assistant Director of Town Panchayat
Collectorate, Udhagamandalam,
Nilgiris District.
- 3.The Executive Officer
Kothagiri Town Panchayat
Kothagiri.
- 4.The Tahsildar
O/o.The District Tahsildar
Kothagiri.

.. Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus directing the respondents 1 to 4 to initiate action against the encroachers to remove all the encroachments in Kota Hall Road, Kothagiri, and restore the road and the panchayat pipeline to its original position.

For Petitioner : Mr.N.Fidelia

For Respondents: Mr.A.N.Thambidurai, Spl.GP

ORDER

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

By consent, the writ petition is taken up for final disposal. Mr.A.N.Thambidurai, learned Special Government Pleader accepts notice on behalf of the respondents.

2 The petitioner claims to be the absolute owner of the property bearing Door No.25/35A1,Manoj Nivas, Don Bosco, Kothagiri, Nilgiris District by virtue of a registered Sale Deed bearing Doc.No.824/1992 dated 19.06.1992, registered on the file of the Sub Registrar, Kothagiri. The petitioner would further aver that the superstructure put up by him, is subjected to all statutory levies. It is the specific case of the petitioner that there exist a Panchayat Main Pipeline starting from Don Bosco corner where 7 roads meet and it runs through Kota Halli Road and connects the residence of Don Bosco area. The petitioner would also aver that the Management of Nahar Hotel and an individual, viz., Udayakumar, had put up a compound wall encroaching upon the Kota Halli Main Road and in the process, had put up superstructures over the pipeline and in this regard, the petitioner has given a representation dated 15.10.2013 to the 2nd respondent and the office of the 2nd respondent vide Memo dated 29.10.2013 has directed the 3rd respondent to cause inspection and take appropriate action and the 2nd respondent once again, sent a Memo dated 20.01.2014 in O.Mu.No.789/2014/Pa3 to the 3rd respondent to inform the action taken to its office and despite that, the 3rd respondent did not take any action and the petitioner also sent a reminder representation dated 28.08.2017 to the 1st respondent to take appropriate action and despite receipt and acknowledgment, nothing is happening and therefore, the petitioner is constrained to approach this Court, by filing the present writ petition.

3 Heard the submissions of the learned counsel for the petitioner and Mr.A.N.Thambidurai, learned Special Government Pleader appearing for the respondents 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 on the Memos of the 2nd respondent dated 29.10.2013 in O.Mu.No.33419/2013/Pa3 and 20.01.2014 in O.Mu.No.789/2014/Pa3 and cause inspection of the said area, after putting the alleged encroachers on notice and the said exercise is to be carried out within a period of six weeks from the date of receipt of a copy of this order and depending upon the survey and inspection, the

3rd respondent shall 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 / encroachers, if any.

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

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

AP

To

- 1.The District Collector
O/o.The District Collector
Uthagamandalam,
Nilgiris District.
- 2.The Assistant Director of Town Panchayat
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- 3.The Executive Officer
Kothagiri Town Panchayat
Kothagiri.
- 4.The Tahsildar
O/o.The District Tahsildar
Kothagiri.

+1cc to Mr.N.Fidelia, Advocate sr.no.29390
+1cc to Government Pleader in sr.no.29960

ssv(co)
nr 11/05/2018

WP.No.9959/2018