

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.01.2018

CORAM:

THE HONOURABLE MR. JUSTICE M.VENUGOPAL
AND
THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

W.P.No.24150 of 2017

T.Senthil Kumar

... Petitioner

vs.

1. The Commissioner,
Corporation of Coimbatore,
Coimbatore.
2. The Zonal Officer,
Ward No.17, West Zone,
Corporation of Coimbatore,
Coimbatore.
3. T.Murugesan
4. K.Manickavasagam ... Respondents

(Respondents 3 and 4 are impleaded vide order of this Court,
dated 25.01.2018
in W.M.P.No.1696 of 2018 in W.P.No.24150 of 2017)

Writ Petition filed under Article 226 of the Constitution
of India praying for the issuance of a mandamus directing the
Respondents to act upon the representation of the Petitioner,
dated 07.02.2017 and consequently to remove the encroachments in
the petitioner's property.

For Petitioner : Mr.T.Gowthaman

For Respondents : Mr.K.Natarajan

O R D E R

(Order of the Court was made by S.VAIDYANATHAN,J.)

The Petitioner has come up with the present Writ Petition
seeking a direction to the Respondents to act upon his
representation, dated 07.02.2017 and consequently remove the
encroachments in his property.

2. According to the petitioner, the property in Survey No.268, Vadavalli Village, originally belonged to his father and that his father passed away on 14.10.2002, leaving behind him, his mother, his brother and sisters as his legal heirs. It is the case of the petitioner that one Manickavasagam, who is residing in S.No.269 behind the land in question, is attempting to encroach into his property in S.No.268 and usurp the same and has illegally put up a compound wall on the Northern side of a portion of his property.

3. The petitioner has also filed a petition to implead two persons, who are said to have encroached his property, as parties to this Writ Petition. Though the petitioner has unassumingly made a prayer seeking to dispose of his representation, his aim is to remove the encroachments in his private land.

4. This Court, has time and again held that if there is any encroachment on public road, Tanks, OSR, Park, etc., the same cannot be tolerated. However, in the present Writ Petition, the petitioner has nowhere stated that his neighbour has encroached a public road or public property, but, has categorically averred that there is an encroachment in his private property. Hence, alternative remedy is not a bar to the petitioner and it is open to him to approach the appropriate Civil forum.

5. It is made clear that this observation will not preclude the Respondents to ascertain as to whether there is any encroachment of public property by any person in and around the property of the petitioner. If so, necessary action need to be initiated. It is also made clear that this observation will not give any right to the petitioner to seek removal of encroachments in his private land. If there are violations in the construction by the impleaded respondents, the official respondents shall ensure that the building is brought in accordance with the Plan.

In fine, the Writ Petition stands dismissed. No costs.

Sd/-
Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

(aeb)

To:

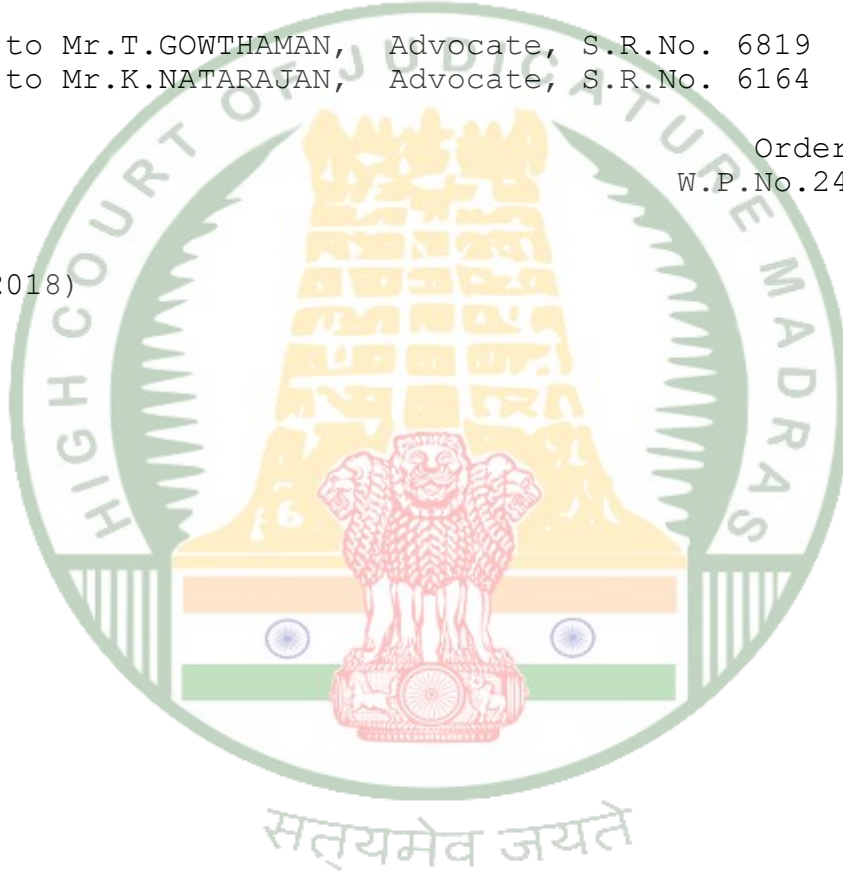
1. The Commissioner,
Corporation of Coimbatore,
Coimbatore.
2. The Zonal Officer,
Ward No.17, West Zone,
Corporation of Coimbatore,
Coimbatore.

+1cc to Mr.T.GOWTHAMAN, Advocate, S.R.No. 6819

+1cc to Mr.K.NATARAJAN, Advocate, S.R.No. 6164

Order in
W.P.No.24150 of 2017

NM(CO)
TR(21/02/2018)



WEB COPY