

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.09.2018

CORAM:

THE HON'BLE MR.JUSTICE M.VENUGOPAL
AND
THE HON'BLE Mrs.JUSTICE S.RAMATHILAGAM

W.P.No.23229 of 2018

R.Punniyamoorthi

...Petitioner

vs.

1. The District Collector,
Perambalur District
2. The Revenue Divisional Officer,
Perambalur District
3. The Tahsildar,
Veppanthattai Taluk
Perambalur District
4. The Block Development Officer,
The Block Development Office,
Veppanthattai Taluk
Perambalur District
5. Samydhurai
6. Pichapillai
7. Abimannan
8. Ramar
9. Marimuthu

... Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the Respondents 1 to 4 to dispose of the Petitioner's representation dated 09.07.2018 and directing the Respondents to remove the encroachment made by the Respondents 5 to 9 in the main street, Mettucherry Village, V.Kalathur Post, Veppanthattai Taluk, Perambalur District.

For Petitioner

: Mr.G.Prabhu

For Respondents : Mrs.Rose Kamalam for R1 to R4
Government Advocate

O R D E R

(Order of the Court was made by M.VENUGOPAL,J.)

Heard the Learned Counsel for the Petitioner and the Learned Government Advocate for the Respondents 1 to 4. No counter is filed on behalf of the Respondents 1 to 4. To avoid an avoidable delay, notice to the Respondents 5 to 9 is dispensed with by this Court.

2. According to the Petitioner, he is working as a Labour in a Government Tea Estate. He has a house site in Mettucheri Village, V.Kalathur Post, Veppanthattai Taluk since 1979 in Survey No.346/3A with an extent of 10 ¼ Cents. The said house site property belongs to his mother, viz., Povammal and there was an ancient house located on the said site where he resided along with his family members before 8 years ago. After the demise of his mother, he secured an employment in the Tea Estate in Ooty and later, he and his family members had moved to Ooty and stayed so far.

3. The Learned Counsel for the Petitioner submits that the Petitioner went to his native village for his holidays and after seeing his house site, he was shocked and surprised that the Respondents 5 to 9 had encroached the street by constructing the godown by blocking his pathway connecting to his house site. Although he had requested the Respondents 5 to 9 to remove the encroachment on several occasions, they are not willing to remove the encroachment. He made a representation to the Respondents 1 to 4 requesting them to initiate the proceedings based on his representation and so far, the said Respondents have not initiated any proceedings.

4. The Learned Counsel for the Petitioner takes a stand that in W.P.No.20186 of 2000 filed by the Petitioners therein, this Court gave necessary direction to remove the encroachment and in spite of the direction, the Respondents 5 to 9 had not acted in the subject matter in issue, hence the Petitioner has filed the present Writ Petition.

5. Considering the fact that the Petitioner had addressed a communication dated 09.07.2018 to the Revenue Tahsildar, Perambalur wherein he had inter alia mentioned that the Village Administrative Officer, V.Kalathur came and inspected the encroachment on 29.06.2018 and informed that the construction should be stopped. However, the Respondent Nos.5 to 9 had put up a building contrary to Law and they had blocked the way,

hence, the Petitioner had ultimately requested for removal of the building put up by the Respondents 5 to 9 in the common pathway and also requested for taking action against them on 09.07.2018. The said representation is yet pending and not yet disposed of. Subsequently, the Petitioner again submitted a Representation / Petition dated 24.07.2018 to the 4th Respondent / Block Development Officer, the Block Development Office, Veppanthattai Taluk and requested for removal of encroachment by the Respondents 5 to 9 etc. Even the said representation dated 09.07.2018 of the Petitioner addressed to the Revenue Tahsildar, Perambalur has not seen the light of the day, therefore, at this stage, without delving deep into the merits of the matter, at this stage, simpliciter directs the Respondents 1 to 4 to look into the representations of the Petitioner dated 09.07.2018 and 24.07.2018 and to take necessary positive steps in regard to the demolition of the building put up by the Respondents 5 to 9 in the public pathway and to restore the same to its normal position within a period of four weeks from the date of receipt of a copy of this order. If the Respondents 1 to 4 are desirous of providing an 'Opportunity of Hearing' to the Respondents 5 to 9, then, they may be put on notice, their views / objections may also be heard, ultimately, if the encroachment is identified and if the building put up by the Respondents 5 to 9 in public pathway is an unauthorised one, then, the Respondents 1 to 4 are directed to act swiftly, diligently and in a godspeed manner and to remove the same in a Lock Stock and Barrel Fashion.

With the aforesaid observations and directions, the Writ Petition is disposed of. No costs.

Sd/-
Assistant Registrar (CS-IV)

//True copy//

Sub Assistant Registrar

ssd

To

1. The District Collector,
Perambalur District
2. The Revenue Divisional Officer,
Perambalur District
3. The Tahsildar,
Veppanthattai Taluk
Perambalur District

4. The Block Development Officer,
The Block Development Office,
Veppanthattai Taluk
Perambalur District

+1cc to Mr.G.Prabhu, Advocate SR.No.61880

+1cc to Government Pleader SR.No.62167

W.P.No.23229 of 2018

GMV (19/09/2018)



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