

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.02.2018

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.27349 of 2017

G.Malliga

.. Petitioner

Vs.

1. The Assistant Commissioner,
Corporation of Chennai,
Zone-14, Puzhuthivakkam,
Chennai.

2. The Tahsildhar,
Sozginganallur Taluk,
Sozhinanallur, Chennai.

3. Gayathri
(Third respondent impleaded as
per order dated 08.11.2017 in
W.M.P.No.30554 of 2017 in
W.P.No.27349 of 2017)

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus to direct the first respondent to remove the road laid in the petitioner's patta land comprised in Survey No.74/1 situate at Pallikarani Village, Sozginganallur Taluk, Kanchipuram District, based on the representation of the petitioner, dated 17.08.2017 forthwith.

For Petitioner :Mr.G.Vinodh Kumar

For Respondents:Mr.T.C.Gopalakrishnan for R-1

Mr.S.N.Parthasarathi, Govt. Advocate for R-2

No appearance for R-3

ORDER

The petitioner has come forward with the above Writ Petition praying for issuance of a Writ of Mandamus to direct the first respondent to remove the road laid in the petitioner's patta land comprised in Survey No.74/1 situate at Pallikarani Village, Sozginganallur Taluk, Kanchipuram District, based on the representation of the petitioner, dated 17.08.2017 forthwith.

2. Even though the third respondent has been served with notice and her name being printed in the cause list, there is no representation for her either in person or through counsel.

3. The case of the petitioner is that her husband purchased the property in question on 14.07.1969 and he died leaving behind the petitioner and sons on 04.04.2012. It is represented by the learned counsel for the petitioner that the petitioner made a representation on 19.06.2017 to the Assistant Commissioner, Zone-14, Corporation of Chennai, stating that no road can be laid in the patta land of the petitioner and further informed the authority that she is constructing a compound wall in the property. According to the petitioner, she has also made a complaint to the police and that the road had been laid in her land.

4. Learned counsel for the first respondent-Corporation of Chennai submitted that the Electricity Department has already installed the street light post in front of the petitioner's land and the authority had never encroached upon the petitioner's property. The petitioner, at the time of erecting the street light post, has never objected, but after that, she has raised objection for the road so laid. There is no averment with regard to the encroachment of the land of the Government by the Corporation of Chennai. Whether the street light posts have been installed in the patta land(s) or in the road belonging to the Corporation, can be ascertained only after survey. Hence, this Court cannot grant the relief sought for by the petitioner. If the petitioner makes any application stating that the land(s) belonging to the petitioner, shall be surveyed, apart from surveying the land of the third respondent, and if there is any encroachment by the third respondent, there is no hindrance on the part of the authorities to remove the encroachment if any, after causing notice, as no one is empowered to encroach upon the Government land and the survey, as prayed for by the petitioner, shall be conducted in accordance with law.

5. Without ascertaining the extent of land(s) in question, based on patta, the petitioner would not be entitled to the relief sought for in this Writ Petition. That apart, the petitioner has got a sale deed in respect of the property in question and the authorities, before surveying the property(ies) in question of the petitioner and the third respondent, shall ascertain the extent of land(s) of the petitioner and the third respondent, from the Sub-Registrar Office and measure the land so that no hurdle is caused to any one including the authorities.

6. With the above observations/direction, the Writ Petition is disposed of. No costs.

Sd/-
Deputy Registrar(CS)

//True Copy//

Sub Assistant Registrar

CS
To

1. The Assistant Commissioner,
Corporation of Chennai,
Zone-14, Puzhuthivakkam,
Chennai.

2. The Tahsildhar,
Sozhinganallur Taluk,
Sozhinanallur, Chennai.

+ 1 cc to Mr.G. Vinodh Kumar, Advocate Sr.14720
+ 1 cc to Mr.T.C. Gopala Krishnan, Advocate Sr.14617
+ 1 cc to the Government Pleader Sr.15419

W.P.No.27349 of 2017

(CS-DR)
EU(22/03/2018)

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