

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 05.06.2018

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

WP.No.13373/2018

S.Padmini

Petitioner

Versus

1.The Collector
Vellore District, Vellore.

2.The Tahsildar
Walaja Taluk, Walaja,
Vellore District.

3.The Block Development Officer
Arcot, Vellore District.

4.Shanmugam

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 3 to remove the encroachment made in S.No.6 to the extent of 130 sq.m situated at Thalamur Village, Walaja Taluk by the 4th respondent and to demolish the illegal construction made by the 4th respondent.

For Petitioner : Mr.V.Elangovan

For Mr.S.Doraisamy

For R1 to R3 : Mrs.M.Lalitha, GA

ORDER

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

By consent, the writ petition is taken up for final disposal. Mrs.M.Lalitha, learned Government Advocate accepts notice on behalf of the respondents 1 to 3.

2 The petitioner claims that her husband, viz., [late] Sellamuthu, had purchased a landed property admeasuring to an extent of 11 cents in S.No.8/2, Thalanur Village, Walaja Taluk, Vellore District, through a registered Sale Deed bearing Doc.no.13394 and was also issued with Patta No.900. After his demise, the petitioner claims to be in possession and enjoyment of the same. It is the specific case of the petitioner that opposite to her land, there is a Government Poramboke land in S.No.6, which as per the Revenue Records, is classified as "Road Poramboke" and it is being used by the public including the petitioner herein. The petitioner expresses her grievances that the 4th respondent had encroached upon the said road/pathway to an extent of 130 sq.m., without any authority and also raised a wall and put up a cement sheet. The petitioner, in this regard, had submitted representations to the concerned officials and the 2nd respondent, vide communication dated 20.10.2017, in Na.Ka.No.Aa5/7129/2017, has requested the 3rd respondent to take action to remove the encroachment and inform the same to him. The 3rd respondent, in turn, had sought a clarification vide letter dated 13.11.2017 in Na.Ka.No.A6/2144/2017 from the 2nd respondent as to his power to do the same and in that event, requested the 2nd respondent to fix a date and inform the same to him.

3 The learned counsel for the petitioner has invited the attention of this Court to the typed set of documents and would submit that despite such communications, no action whatsoever has been taken to remove the encroachment made by the 4th respondent and left with no other option only, the petitioner is constrained to approach this Court by filing the present writ petition.

4 Per contra, Mrs.M.Lalitha, learned Government Advocate appearing for the respondents 1 to 3 would submit that since the power has been delegated by the 2nd respondent to the 3rd respondent to remove the encroachment by following due process of law, there cannot be any impediment on the part of the said official to do the same.

5 This Court has considered the rival submissions and also perused the materials placed before it.

6 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 2nd respondent to issue necessary clarification sought for by the 3rd respondent as to his power to remove the encroachment and the said exercise is to be carried out within a period of four weeks from the date of receipt of a copy of this order and the 3rd respondent, upon receipt of such a communication from the 2nd respondent, shall

put the 4th respondent on notice and thereafter, take action to remove the alleged encroachment in accordance with law within a further period of six weeks thereafter and communicate the decision taken, to the petitioner as well as to the 4th respondent herein.

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

Sd/-
Assistant Registrar (CS VII)

//True copy//

Sub Assistant Registrar

AP

To

- 1.The Collector
Vellore District, Vellore.
- 2.The Tahsildar
Walaja Taluk, Walaja,
Vellore District.
- 3.The Block Development Officer
Arcot, Vellore District.

+lcc to Mr.S.Doraisamy, Advocate SR.No.34859

WP.No.13373/2018

GN(11/06/2018)

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