

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 06.06.2018

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

WP.No.13419/2018

T.M.Kandasamy

..

Petitioner

Versus

1.The District Collector
Erode District, Erode 638011.

2.The Revenue Divisional Officer
Gobichettipalayam, Erode District.

3.The Tahsildar
Nambiyur Taluk
Erode District.

..

Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus directing the respondents to consider the petitioner's representation dated 26.04.2018 for removal of the obstruction caused in the form of fencing erected in SF.No.132/56, to facilitate his right of entry to his house constructed in SF.No.132/57, of Nichampalayam Village, Nambiyur Taluk, Erode District.

For Petitioner : Mr.N.Manokaran

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 would state that he had put up a superstructure bearing Door No.76/49, Thanneerpandalpalayam, Ketticheviyur, Nambiyur Taluk, Erode District in SF.No.132/57 and it is located on the Southern side of the Poramboke Land,

comprised in SF.No.132/56 and it is the specific case of the petitioner that the said poramboke land is used as pathway / access to reach the Main Road from his residence and it is in existence for over a Century. The petitioner would further aver that all of a sudden, without any notice, the jurisdictional Village Administrative Officer [VAO] came along with a retired Surveyor and measured the property and prior to doing so, the petitioner has not been put on notice. The petitioner, immediately submitted a representation dated 13.04.2018 to the higher officials and in the interregnum, VAO came on 15.04.2018 and erected a wire fencing in SF.No.132/56 and thereby, obstructing the petitioner's access to the Northern entrance of his house. The petitioner, in this regard, has also submitted representations and last of such representation was submitted to the 2nd respondent on 30.04.2018 and despite receipt and acknowledgment, the grievance expressed by the petitioner is yet to be addressed and therefore, the petitioner is constrained to approach this Court by filing the present writ petition.

3 Mr.N.Manokaran, learned counsel for the petitioner has drawn the attention of this Court to the typed set of documents and would submit that the petitioner has not encroached upon an inch of the public land and however, using the said pathway to have access to his house and it is also in existence for over a Century and before conducting survey and measurement, the concerned official has not even put the petitioner on notice and he has acted at the behest of his brother who is enmical to VAO and therefore, prays for appropriate orders.

4 Per contra, Mr.A.N.Thambidurai, learned Special Government Pleader appearing for the respondents would submit that the petitioner is pleading Easement of Necessity and his remedy is to approach the Civil Court and therefore, the writ petition is not maintainable and prays for dismissal of 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 either in his representations or in this writ petition, directs the 2nd respondent to provide an opportunity of personal hearing to the petitioner as well as the concerned person/s, if any and thereafter, consider and dispose of the petitioner's representation dated 26.04.2018 on merits and in accordance with law and pass appropriate orders within a period of eight weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner as well as to the person/s concerned, if any.

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

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

AP

To

1.The District Collector
Erode District, Erode 638011.

2.The Revenue Divisional Officer
Gobichettipalayam, Erode District.

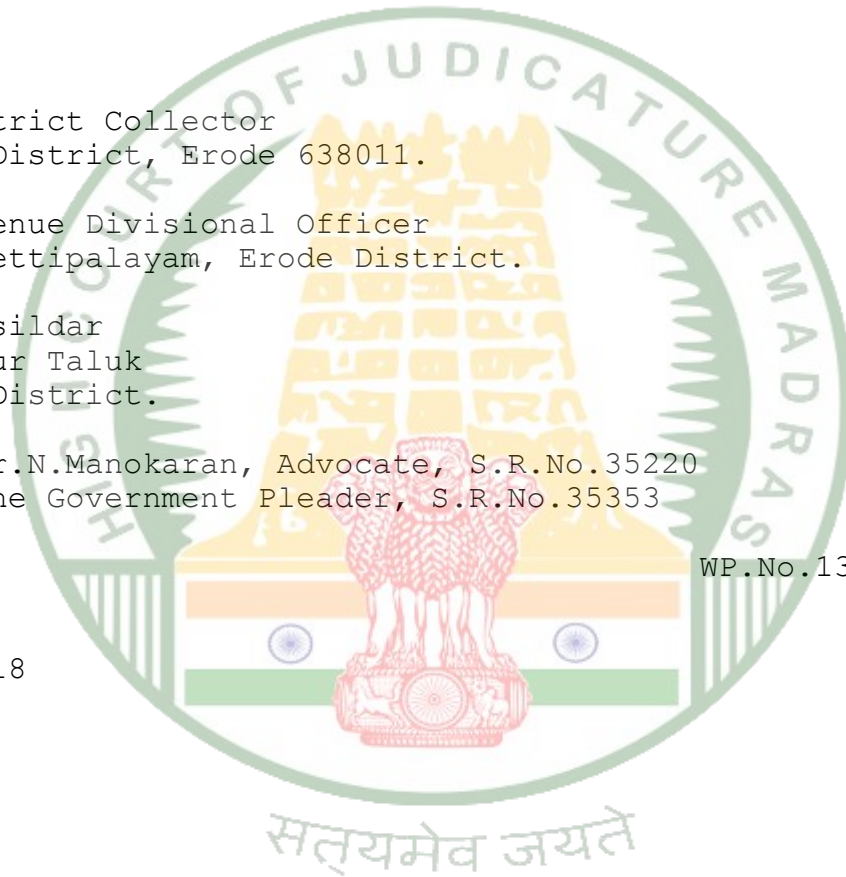
3.The Tahsildar
Nambiyur Taluk
Erode District.

+1cc to Mr.N.Manokaran, Advocate, S.R.No.35220

+1cc to the Government Pleader, S.R.No.35353

WP.No.13419 OF 2018

MP(CO)
CS/04/07/18



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