

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.07.2018

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

W.P. No.31378 of 2013 &
M.P.No.1 of 2013

R.Babu

.. Petitioner

Vs.

- 1.The District Collector,
Coimbatore District,
Coimbatore - 641 018.
- 2.The Revenue Divisional Officer,
Coimbatore Division,
Coimbatore - 641 018.
- 3.The Tahsildar,
Sulur Taluk,
Coimbatore District - 641 040.
- 4.The Executive Officer,
Moppiripalayam Town Panchayat,
Vagarayampalayam,
Coimbatore District - 641 659.

5.Rajamani

.. Respondents

PRAYER:

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus to forbear the respondents from disturbing the peaceful possession and enjoyment of the petitioner in S.No.49/1A, 49/2, 49/4A, 49/4B & 50/1A, Moppiripalayam Village, Coimbatore Taluk except by due process of law.

For Petitioner : Mr.MA.P.Thangavel

For Respondents : Mr.V.Shanmuga Sundar
Special Government Pleader for R1 to R3

Mr.P.S.Sivashanmuga Sundaram for R4

Mr.K.Govi Ganesan for R5

O R D E R

Heard Mr.MA.P.Thangavel, learned counsel for the petitioner; Mr.V.Shanmuga Sundar, learned Special Government Pleader for the respondents 1 to 3; Mr.P.S.Sivashanmuga Sundaram, learned counsel for the fourth respondent and Mr.K.Govi Ganesan, learned counsel for the fifth respondent and perused the materials available on record.

2. This Writ Petition has been filed for issuance of Writ of Mandamus forbearing the respondents from disturbing the peaceful possession and enjoyment of the petitioner in S.No.49/1A, 49/2, 49/4A, 49/4B & 50/1A in Moppiripalayam Village, Coimbatore Taluk except by due process of law.

3. It seems that the petitioner claims exclusive right over the properties in Survey Nos.S.No.49/1A, 49/2, 49/4A, 49/4B & 50/1A based on a registered settlement deed dated 26.09.2012. The allegation of the petitioner is that the fourth respondent colluding with the fifth respondent had attempted to lay a road in the property in question.

4. The fourth respondent has filed a counter stating that the petitioner by encroaching in Survey No.49/3 had put up a pucca construction and in paragraph No.4, it has been categorically stated that the fourth respondent had not taken any action against Survey Numbers as mentioned in the prayer column and the action is initiated only in Survey No.49/3.

5. Mr.K.Govi Ganesan, learned counsel for the fifth respondent would submit that this Writ Petition has been filed since the petitioner could not obtain any interim order in the suit filed in O.S.No.2167 of 2007 and this Writ Petition has to be dismissed on the sole ground of suppression of material fact. It is further submitted that the suit was dismissed for non prosecution and it has been restored and the rights of the parties have to be decided by the competent Civil Court.

6. In the light counter filed by the fourth respondent, this Court is of the considered opinion that no further adjudication is required in this Writ Petition. Accordingly, the Writ Petition is disposed of. However, it is

made clear that the parties shall establish their rights before the competent Civil Court. There is no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

r n s

To

- 1.The District Collector,
Coimbatore District,
Coimbatore - 641 018.
- 2.The Revenue Divisional Officer,
Coimbatore Division,
Coimbatore - 641 018.
- 3.The Tahsildar,
Sulur Taluk,
Coimbatore District - 641 040.

+1cc to Mr.K.Govi Ganesan, Advocate, S.R.No.42465
+1cc to Mr.MA.P.Thangavel, Advocate, S.R.No.42904
+1cc to the Government Pleader, S.R.No.43214

W.P. No.31378 of 2013 &
M.P.No.1 of 2013

SSI(CO)
CS/16/07/18

सत्यमेव जयते

WEB COPY