

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.06.2018

CORAM

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

WP.No.14390 of 2018

V.Pavalayee

...Petitioner

Vs.

1.The Collector,
Office of the Collectorate,
Erode District.

2.The Revenue Divisional Officer,
O/o.the Revenue Divisional Officer,
Gobichettipalayam, Erode District.

3.The Tahsildar,
O/o.the Tahsildar,
Bhavani, Erode District.

4.Muniyappan

5.Ammasai

6.Mami @ Nallasamy

7.Chinnatambhi@Palanisamy

...Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, directing the respondents 1 to 3 to remove the encroachment made by the respondent 4 to 7 in the common public pathway in S.No.317/18 on the basis of petitioner's representation dated 16.05.2017 and subsequent remainder representation dated 21.05.2018.

For Petitioner : Mr.S.Viswanathan

For Respondents: Mr.A.N.Thambidurai, Spl GP for R1 to R3

ORDER

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

By consent, the writ petition is taken up final disposal. Mr.A.N.Thambidurai, learned Special Government Pleader accepts notice for respondents 1 to 3.

2. The petitioner claims to be in possession of the property in Varadhanallur Village, Bhavani Taluk, Erode District bearing S.No.317/19, and she has also put up superstructure and residing there and according to her, there is an approach road in S.No.317/18 which is encroached by respondents 4 to 7. The petitioner along with one A.Valliyappan on an earlier occasion filed WP.No.22178 of 2014 for removal of unauthorised constructed wall put up by the Private respondents and it was disposed of on 12.09.2014, by directing the Tahsildar, Bhavani, Erode District, to consider and dispose of the representation in accordance with law and accordingly, the Tahsildar caused inspection and found that in S.No.317/18, adjacent to the property belonging to the petitioner, the private respondents had put up a compound wall having breadth of 10 Feet and height of 13 feet and on account of pendency of the suit in O.S.No.142 of 2014 on the file of the Ist Additional District Munsif, Bhavani, Erode District, the Tahsildar expressed his inability to take appropriate action. The petitioner would further state that the private respondents have file the suit in O.S.No.142/2014 and pending disposal of the same has filed IA.No.424 of 2016 for amendment of the plaint and it was dismissed on 28.02.2017. Subsequently, the suit itself came to be dismissed as withdrawn and as such, there cannot be any impediment on the part of the official respondents to take appropriate action for removal of encroachment in the form of compound wall and therefore, prays for appropriate orders.

3. The learned counsel appearing for the petitioner would submit that the inspection carried out by the revenue officials would clearly disclose that there is an encroachment on the public pathway in Survey No.317/2018, in the form of compound wall and it should be removed forthwith, after following due process of law.

4. Mr.A.N.Thambidurai, learned Special Government Pleader would submit that appropriate action will be taken in accordance with law to remove the compound wall, which is said to have been put up by the private respondents.

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

6. On a perusal and appraisal of the typed set of documents in support of this writ petition, the petitioner would disclose that the land in S.No.317/18 is classified as 'pathway' in the relevant Government records and construction in the form of compound wall had been put up by Thiruvalarkal. 1.Muniappan, 2.Ammasai, 3.Nallasamy 4.Pazhanisamy.

7. This Court taking into consideration of the above facts and circumstances and without going into the merits of the claim projected by the petitioner, directs the 3rd respondent to initiate appropriate action in accordance with law by putting on notice, the respondents 4 to 7 and thereafter to take necessary steps for removal of encroachments in the form of compound wall in S.No.317/18 and the said exercise is to be carried out within a period of ten weeks from the date of receipt of copy of this order and the decision taken in this regard shall be communicated to the petitioner as well as the respondents 4 to 7.

8. With the above direction, the writ petition stands disposed of. No costs.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

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To

1.The Collector,
Office of the Collectorate,
Erode District.

2.The Revenue Divisional Officer,
O/o.the Revenue Divisional Officer,
Gobichettipalayam, Erode District.

3.The Tahsildar,
O/o.the Tahsildar,
Bhavani, Erode District.

+1cc to the Government Pleader, S.R.No.37887

WP.No.14390 of 2018

TR(29/06/2018)