

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.11.2018

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

W.P.No.24857 of 2018

K. Jengal ... Petitioner

Vs.

1. The District Collector
Villupuram District,
Villupuram.

2. The Revenue Divisional Officer,
Revenue Department
Gingee Taluk, Villupuram District.

3. The Executive Officer,
Gingee Town Panchayat Office,
Gingee Taluk,
Villupuram District.

4. Mr.K.Chinnaiyan ... Respondents

Writ Petition Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, directing the respondents to take appropriate action and remove the encroachment over the Government Land in Survey No.291/9 at Chakkarapuram Village, Gingee Taluk, Villupuram District based on the petitioner's representation dated 14.08.2018.

For Petitioner : Mr.D.Asenthamani

For Respondents: Ms.Thangavadhana Balakrishnan
Addl. Govt. Pleader for R 1 & 2
Mr.P.S.Sivashanmuga Sundaram for R 3
Mr. M.Guruprasad for R 4

O R D E R

(Judgment of the Court was delivered by R.SUBRAMANIAN, J.)

The prayer in the Writ Petition is as follows:

"issuance of Writ of Mandamus, directing the respondents to take appropriate action and remove the encroachment to the Government Land in Survey

No.291/9 at Chakkarapuram Village, Gingee Taluk, Villupuram District based on the petitioner's representation dated 14.08.2018."

2. The petitioner and the 4th respondent are brothers. The dispute relates to a lane situate between their houses. Claiming that the lane is a public lane belonging to the 3rd respondent Panchayat, the petitioner seeks a Mandamus directing the respondents to remove the encroachments made thereon by the 4th respondent. In fact, the Authorities had issued notices to the 4th respondent seeking to remove the encroachment. The said proceedings dated 06.04.2018 were challenged by the 4th respondent in WP No.9625 of 2018.

3. A Division Bench of this Court, by order dated 20.04.2018, disposed of the said Writ Petition, giving liberty to the 4th respondent herein, who was the petitioner in WP No.9625 of 2018, to move an Application for ad interim injunction in the suit filed by him in OS No.282 of 2014, pending on the file of the District Munsif Court, Gingee. Pursuant to the said liberty, the 4th respondent has also filed an Application seeking an order of injunction. The same is said to be pending. A copy of the said IA has also been produced before us.

4. We have heard Mr.D.Asenthamani, learned counsel appearing for the petitioner, Ms.Thangavadhana Balakrishnan, Additional Government Pleader appearing for the respondents 1 & 2, Mr.P.S.Siva Shanmugasundaram, learned counsel appearing for the 3rd respondent and Mr.M.Guruprasad, learned counsel appearing for the 4th respondent.

5. The prayer of the petitioner seeking an issuance of Mandamus does not survive any longer, in view of the fact that the Authorities had already taken action for removal of the encroachment and the said action was challenged by the 4th respondent in WP No.9625 of 2018. The Division Bench had already given liberty to the 4th respondent to move the District Munsif, Gingee, seeking an injunction under Order 39 Rule 1 and 2 of the Code of Civil Procedure. In view of the said direction made by the Division Bench, we do not think that the Mandamus as sought for can be issued at this stage.

6. We therefore, direct the Authorities to await the disposal of the Interlocutory Application for injunction filed

by the 4th respondent before the District Munsif, Gingee, in OS No.282 of 2014. We also direct the District Munsif, Gingee to dispose of the Interlocutory Application expeditiously, at any rate, not later than three months from the date of receipt of a copy of this order.

7. The Writ Petition is disposed of with the above directions. No costs. The Registry is directed to forward a copy of this order to the learned District Munsif, Gingee for appropriate action.

-s/d-

Assistant Registrar(CS-IV)

True Copy

Sub-Assistant Registrar

jv

To

1. The District Collector
Villupuram District,
Villupuram.
2. The Revenue Divisional Officer,
Revenue Department
Gingee Taluk, Villupuram District.
3. The Executive Officer,
Gingee Town Panchayat Office,
Gingee Taluk,
Villupuram District.
4. The District Munsif
Gingee.

+1 CC to Mr.D.Asenthamani, Advocate sr 76870.

+1 CC to Mr.M.Guruprasad, Advocate sr 76249.

W.P.No.24857 of 2018

SP(04/12/2018)