

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.10.2019

CORAM

THE HONOURABLE DR.VINEET KOTHARI, ACTING CHIEF JUSTICE
AND
THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.29200 of 2019

G.Janardhanam Pillai

Petitioner

Versus

1. The Commissioner,
Avadi Municipality, Avadi,
Chennai 600 054.
2. The Tahsildar
Avadi Taluk Office,
Avadi, Chennai 600 054.
3. Mr.Sridharan

Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of mandamus directing the first and second Respondents to take action on the representations of the Petitioner dated 28.11.2018 and 13.3.2019 within a time period fixed by this court.

For petitioner : Mr.M.V.Seshachari

For R1 & R2 : Mr.V.Jayaprakash Narayanan,
Government Pleader

ORDER

(Order of the court was made by Dr.VINEET KOTHARI, ACJ.)

The Petitioner G.Janardhanam Pillai, son of R.Govinda Pillai has filed this Petition with the following prayer:-

"Writ of mandamus directing the first and second Respondents to take action on the representations of the Petitioner dated 28.11.2018 and 13.3.2019 within a time period fixed by this court."

2. Learned counsel for the Petitioner Mr.M.V.Seshachari submitted that Respondent No.3, Mr.Sridharan, residing at Plot No.18A, 2nd Cross Street, Venugopal Nagar, Thirumullaivoyal, Chennai 600 062 has encroached the public road on his locality and the construction in questin was raised long ago in the year 1986 or so, but despite several representations to the public Authorities including the Commissioner of Municipality of Chennai, the said Authority has failed to take any action and hence, he has come up with the present Petition.

3. Having heard the learned counsel for the parties, we are satisfied that it is a private and civil dispute between the Petitioner and Respondent No.3 and therefore, appropriate remedy for the Petitioner is to approach the Civil Court by way of a Civil Suit, if necessary, by impleading the public Authorities concerned also. Unless the question of fact regarding the extent of encroachment by the private Respondent is established, the court cannot issue the directions for removal of encroachment by exercise of its extra ordinary jurisdiction under Article 226 of the Constitution of India. The fact of encroachment and extent thereof has to be established only in a Civil Court in a properly instituted Civil Suit.

4. In such circumstances, we do not consider it appropriate to entertain the present Writ Petition. Therefore, the same is dismissed with liberty to the Petitioner to file appropriate Civil Suit. No costs.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

ssk.

To:

1. The Commissioner,
Avadi Municipality, Avadi,
Chennai 600 054.
2. The Tahsildar
Avadi Taluk Office,
Avadi, Chennai 600 054.

+1cc to Special Government Pleader sr.85833

nr 14/11/2019

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