

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.08.2019

CORAM :

The Hon'ble Mrs.VIJAYA K.TAHILRAMANI, CHIEF JUSTICE

AND

The Hon'ble Mr.JUSTICE M.DURAI SWAMY

W.P.No.31553 of 2018

Karuppusamy

.. Petitioner

-vs-

1.The District Collector,
Nilgiri District.

2.The Tashildar,
Coonoor Taluk,
Coonoor, Nilgiri District.

3.The Village Administrative Officer,
Melur Village,
Coonoor Taluk,
Nilgiri District.

4.The Special Officer,
Melur Village Panchayat,
Melur, Coonoor Taluk.

5.The Nilgiris Tea Estate Limited,
rep. by its Manager,
Mailoor Estate,
Kullacombai Post,
Coonoor Taluk, Nilgiri District.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Mandamus directing the 2nd respondent to remove encroachment made by 5th respondent in the public road in S.F.No.608/2 at Melur Village in Coonoor Taluk of Nilgiri District by considering the representation of the petitioner dated 30.07.2018.

For Petitioner

: Mr.N.Ponraj

For Respondents

: Mr.S.N.Parthasarathy
Government Advocate
for respondent Nos.1 to 4

Mr.C.A.Diwakar
for respondent No.5

ORDER

(Order of the Court was made by M.Duraiswamy, J.)

The petitioner has filed the above writ petition to issue a Writ of Mandamus directing the second respondent to remove the encroachment made by the fifth respondent in the public road in S.F.No.608/2 at Melur Village, Coonoor Taluk, The Nilgiris District by considering the representation of the petitioner dated 30.07.2018.

2. It is the case of the petitioner that the fifth respondent has made encroachment by installing a check gate in S.F.No.608/2, thus causing hindrance to the traffic as well as the public.

3. The second respondent, Tahsildar, Coonoor Taluk has filed counter-affidavit, wherein it has been stated that the land measuring 3 cents comprised in Old S.No.504/2 correlated to R.S.No.608/2 of Melur Village, Coonoor Taluk had been leased out to one John Iris of Nilgiris Tea Estate Limited as per the proceedings of the District Collector, The Nilgiris District up to 30.06.1975 and the said lease was cancelled by the District Revenue Officer, The Nilgiris District, by an order dated 18.09.2008. Further, the second respondent has stated that after cancellation of the lease, the subject land comprised in S.No.608/2 was taken over by the Government and is being used as public path way, since it is a Government poramboke land. It is also stated in the counter-affidavit that the right of way claimed by the petitioner in S.No.608/3 cannot be granted in as much as the same is a patta land owned by the fifth respondent.

4. The claim of the petitioner for right of way in S.No.608/3 of Melur Village, Coonoor Taluk, The Nilgiris District, cannot be granted as the said piece of land is a patta land owned by the fifth respondent. However, the writ petition has been filed by the petitioner only in respect of S.No.608/2 and not in respect of S.No.608/3. When the Tahsildar, Coonoor Taluk has specifically stated that the land in S.No.608/2 is being used as pathway and that there is no check gate as contended by the petitioner, we are not inclined to grant the relief sought for in the writ petition.

5. Recording the averments in the additional counter-affidavit filed by the second respondent, the writ petition is disposed of. No costs. Consequently, W.M.P.No.36770 of 2018 is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To:

- 1.The District Collector,
Nilgiri District.
- 2.The Tashildar,
Coonoor Taluk,
Coonoor, Nilgiri District.
- 3.The Village Administrative Officer,
Melur Village,
Coonoor Taluk,
Nilgiri District.
- 4.The Special Officer,
Melur Village Panchayat,
Melur, Coonoor Taluk.

+1 cc to M/s.C.A.Diwakar, Advocate Sr.No.73832
+1 cc to The Government Pleader Sr.No.73464

AKM/18.09.19/3P-7C /

सत्यमेव जयते

W.P.No.31553 of 2018

WEB COPY