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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.02.2020

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH
and
THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

Writ Petition No.455 of 2020
and
W.M.P.No.514 of 2020

P.Saravanakumar
S/o.Late N.K.Palanisamy ... Petitioner

Vs

1.The Executive Officer,
Narasimhanaickenpalayam Town Panchayat,
Narasimhanaickenpalayam.
Coimbatore - 641 031.

2.The Tahsildar,
Coimbatore North Taluk Office,
Balasundaram Road,
Coimbatore - 641 031.

3.M.Divakaran
S/o.M.Munusamy

4.P.Nanjammal
W/o.Late Palaniappan ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing first respondent to take action on the representation given by the petitioner dated 09.10.2019 to remove the obstruction caused by respondents 3 and 4, on the public pathway leading to petitioner's property situated at Door No.1/9 in S.F.No.549/3, No.17, Narasimmanaickenpalayam Village, Coimbatore District, in accordance with law, within a reasonable time.

For Petitioner : Mr.A.E.Ravi Chandran
For Respondent : Mr.V.Shanmuga Sundar
Special Government Pleader [R1 & R2]
Mr.N.Chinnaraj [R3 & R4]



O R D E R

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[Order of this Court was made by R.SUBBIAH, J]

Petitioner has filed the present Writ Petition seeking issuance of a Writ of Mandamus directing first respondent to take action on the petitioner's representation dated 09.10.2019 to remove the obstruction caused by respondents 3 and 4, on the public pathway leading to petitioner's property situated at Door No.1/9 in S.F.No.549/3, No.17, Narasimmanaickenpalayam Village, Coimbatore District, in accordance with law, within a reasonable time.

2. Heard learned counsel for petitioner, learned Special Government Pleader appearing for respondents 1 and 2 and learned counsel appearing for respondents 3 and 4.

3. Learned counsel for petitioner submits that the property in Door No.1/9 in S.F.No.549/3, No.17, Narasimmanaickenpalayam Village, Coimbatore District, was acquired by his father by way of sale deed dated 16.02.1990 registered as Doc.No.426/1990 on the file of SRO, Periyanaickenpalayam. There is a public pathway leading to the said property, which is used by petitioner's family and others and it is the only access to the property. While so, respondents 3 and 4, who own properties, abetting the public pathway, put up obstructions by keeping construction materials, debris and unwanted scraps. Despite petitioner's request to remove the same, they have not done so. Hence, petitioner submitted a representation to respondents 1 and 2. On 05.05.2018, the Taluk Surveyor measured the properties and demarcated the public pathway. Since the first respondent is the concerned authority to remove the obstruction, petitioner's father submitted a detailed representation dated 05.07.2019 to first respondent. Thereafter, petitioner submitted a detailed representation dated 09.10.2019 to first respondent. However, no action has been taken. Hence, petitioner has filed the present petition seeking the aforesaid relief.

4. Learned counsel for respondents 3 and 4 denies the submission that there is an encroachment.

5. This Court has considered the rival submissions.

6. This Court does not conduct roving enquiry with regard to the disputed question of fact. Petitioner's representation dated 09.10.2019 is pending on the file of



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first respondent. Therefore, first respondent is directed to conduct an enquiry, afford an opportunity of personal hearing to petitioner as well as to respondents 3 and 4 and in the event of first respondent coming to the conclusion that there is an encroachment, the first respondent shall proceed further to remove the encroachment in accordance with law. The entire exercise shall be completed within a period of eight weeks from the date of receipt of this order.

The Writ Petition is disposed of with the above direction. No costs. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

gm

To

1.The Executive Officer,
Narasimhanaickenpalayam Town Panchayat,
Narasimhanaickenpalayam.
Coimbatore - 641 031.

2.The Tahsildar,
Coimbatore North Taluk Office,
Balasundaram Road,
Coimbatore - 641 031.

+1cc to Mr.A.E.Ravi Chandran , Advocate SR.No. 8805

+1 cc to Government Pleader Sr.No.9476

+1cc to Mr.N.Chinnaraj , Advocate SR.No. 8494

Writ Petitiion No.455 of 2020

A.SK(11/03/2020)