

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.12.2020

CORAM

THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

W.P.No.17282 of 2020
(Heard through VC)

Dr.Thangamuthu

.. Petitioner

Vs.

1. The District Collector,
Erode District.

2. The District Revenue Officer,
Erode

3. T.Raguraman

.. Respondents

PRAYER: Writ Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Mandamus to direct the respondents 1 and 2 to consider his representation dated 13.03.2020 to evict the third respondent from his property situated at H25, EVN Road, Periyar Nagar, Erode, within the time fixed by this Court.

For Petitioner : Mr.I.C.Vasudevan

For Respondents-1 & 2 : Mr.R.S.Selvam, Govt.Advocate

ORDER

The Writ Petition is filed seeking for issuance of a Mandamus to direct the respondents 1 and 2 to consider the petitioner's representation dated 13.03.2020 to evict the third respondent from his property situated at H25, EVN Road, Periyar Nagar, Erode, within the time fixed by this Court.

2. It is stated by the petitioner that he is an octogenarian being 80 years old. He is working as a consultant Surgeon at

Gobichettipalayam. He has two sons, namely, one Raghuraman/the third respondent herein and Ganesh and all the family properties were partitioned in the 1997 itself among themselves and they have been enjoying the properties allotted to them. The petitioner has been in possession of the property situated at Periyar Nagar, Erode and it is his self-acquired property. While so, on 06.08.2015, the third respondent had illegally entered into the above said property and encroached one portion of house. Therefore, the petitioner had given a complaint before the Police officials and a case was registered for the offences punishable under Sections 294(b), 448 and 506 of I.P.C. In the meanwhile, the third respondent had filed a suit in O.S.No.470 of 2013 for permanent injunction and the same was dismissed for default. The petitioner also filed a suit in O.S.No.775 of 2015 for recovery of possession and the same was decreed on 23.04.2019, directing the third respondent to handover the possession within 3 months. But, the third respondent did not do so. While so, on 11.02.2020, the third respondent had also illegally occupied one shop and he is running business relating to dairy products. In this regard, the petitioner gave a complaint before the Superintendent of Police, Erode District and CSR No.29 of 2020 dated 25.02.2020 was also assigned. However, no fruitful action was taken. The petitioner also sent a representation to the first respondent on 13.03.2020 requesting him to take action against the third respondent and to evict him from his property, which was forwarded to the second respondent on 19.03.2020, directing the second respondent to conduct an enquiry and submit a report. Since the second respondent did not take any action so far, the petitioner is before this Court.

3. Heard the learned counsel for the petitioner and the learned Government Advocate appearing on behalf of the respondents 1 and 2 and perused the materials available on record.

4. The learned Government Advocate appearing on behalf of the respondents 1 and 2, upon instructions, has produced a copy of the summons issued by the second respondent, vide his proceedings No.Na.Ka.2375/2020/Aa2, dated 18.12.2020, as per which, summons had been issued to both the petitioner and the third respondent for hearing on 23.12.2020 before the Revenue Divisional Officer, Erode.

5. In such circumstances, the Revenue Divisional Officer, Erode is directed to conduct an enquiry with the petitioner and the third respondent and pass appropriate orders on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of this order.

6. With the above direction, the Writ Petition is disposed of. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

srn

To

1. The District Collector,
Erode District.

2. The District Revenue Officer,
Erode

3. The Revenue Divisional Officer,
Erode.

+1 cc to M/s.Hema murali krishnan, Advocate Sr.No. 42818

W.P.No.17282 of 2020

PP (CO)
RMP (18/01/2021)



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