



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Special Original Jurisdiction)

Monday, the Twenty Eighth day of June Two Thousand Twenty One

PRESENT

The Hon`ble Mr Justice N.KIRUBAKARAN

AND

The Hon`ble Mrs Justice T.V.THAMILSELVI

WMP.Nos.255 and 259 of 2021

IN WP.14757 of 2020

P.SATHIYAMOORTHY
(ARRAYED AS P.MOORTHY
IN WP.NO.14757 OF 2020)

[PETITIONER]

Vs

1 N.PALANISAMY

[RESPONDENTS]

2 THE DISTRICT COLLECTOR,
DISTRICT COLLECTOR OFFICE,
ERODE.

3 THE DISTRICT REVENUE OFFICER,
ERODE DISTRICT, ERODE.

4 THE REVENUE DIVISIONAL OFFICER,
ERODE DISTRICT, ERODE 638 101.

5 THE REVENUE TAHSILDAR,
ERODE DISTRICT, ERODE 638 101.

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to recall the order dated 13.10.2020 made in WP.No.14757 of 2020 (in WMP.255/2021 in WP.No.14757/2020 and;

(ii) To grant an order of interim stay of the order dated 13.10.2020 made in WP.No.14757 of 2020 passed by this Honourable Court (in WMP.No.259/2021) pending disposal of the the above in WP.No.14757/2020 respectively.



Order : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of MR.N.MANOKARAN, Advocate for the petitioner and of MR.L.CHANDRAKUMAR, Advocate for 1st respondent and MRS.R.ANITHA State Government Counsel for 2 to 5 respondents the court made the following order:-

(Order of the Court was made by N.KIRUBAKARAN,J.)

By earlier order dated 13.10.2020 in W.P.No.14757 of 2020 at the instance of the original Writ Petitioner, this Court has directed the Revenue Tahsildar, Erode District along with jurisdictional Surveyor to cause inspection of the land in S.No.46/1 of Perodu Village, with the help of relevant revenue records by putting the 5th Respondent as well as the Petitioner on notice and to take action according to law, if any encroachment is found. Paragraph 5 of the said order is extracted as follows:

"5. A perusal of the A-Register pertaining to Perodu Village would prima facie disclose that the land in S.F.No.46/1 admeasuring an extent of 0.09.0 is classified as 'cart track'. This Court taking into consideration the above facts and circumstances and without going into the merits of the claim projected by the petitioner either in his representation dated 07.09.2020, or in this Writ Petition, directs the 4th respondent, along with jurisdictional surveyor, to cause inspection of the land in S.No.46/1 of Perodu Village, with the help of relevant revenue records by putting the petitioner as well as the 5th respondent on notice and if the result of the inspection discloses any encroachment or obstruction on the said land and public pathway, the official respondents shall take immediate and appropriate action in accordance with law by putting the encroachers on notice which may include the 5th respondent and also by adhering to the principles of natural justice and complete the entire exercise within a period of eight weeks from the date of receipt of a copy of this order and communicate the decision taken to the petitioner, 5th respondent and other persons/encroachers, if any."

2.However, the Petitioner herein has filed this Petition, to recall the said order as the survey has not been conducted in the presence of the Petitioner herein and the officials measured only S.No.46/1, without measuring S.No.46 & S.No.48 in entirety. The Petitioner would further submit that unless the survey is done comprehensively with regard to S.No.46 & S.No.48, the correct position will not be revealed.

3.Heard Mr.N.Manoharan, learned counsel appearing on behalf of the Petitioner, Mr.L.Chandrakumar, learned counsel appearing on behalf of the 1st Respondent and Mrs.R.Anitha, learned State



Government Counsel appearing on behalf of Respondents 2 to 5.

4. Since this Court is convinced with the reasons stated in the affidavit filed in support of the Petition viz., W.M.P.No.255 of 2021 and the representation made by Mr.N.Manoharan, learned counsel appearing on behalf of the Petitioner that to find out the existence of the pathway comprised in S.No.46/1 the entire S.Nos.46 & 48 have to be measured, the earlier order passed by this Court on 13.10.2020 in W.P.No.14757 of 2020 is recalled and W.M.P.No.255 of 2021 in W.P.No.14757 of 2020 is ordered.

5. As far as W.M.P.No.259 of 2021 is concerned, since W.M.P.No.255 of 2021 is ordered, there is no necessity to pass any orders in W.M.P.No.259 of 2021. Accordingly, W.M.P.No.259 of 2021 is closed.

-sd/-

28/06/2021

/ TRUE COPY /

Sub Assistant Registrar (Statistics / C.S.)
High Court, Madras - 600 104.

TO

1 THE DISTRICT COLLECTOR,
DISTRICT COLLECTOR OFFICE,
ERODE.

2 THE DISTRICT REVENUE OFFICER,
ERODE DISTRICT, ERODE.

3 THE REVENUE DIVISIONAL OFFICER,
ERODE DISTRICT, ERODE 638 101.

4 THE REVENUE TAHSILDAR,
ERODE DISTRICT, ERODE 638 101.

Order

in

WMP.Nos.255 & 259/2021

in

WP.14757/2020

Date :28/06/2021

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