

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.02.2021

CORAM :

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN
AND
THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN

W.P.No.4822 of 2020

Parvathavarthini

... Petitioner

Vs.

1.The District Collector,
Erode District, Erode.

2.The Commissioner,
Erode Municipal Corporation,
Erode, Erode District.

3.The Tahsildar,
Erode Taluk, Erode,
Erode District.

4.Perumal

5.Natrayan

6.Natarajan

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the respondents 1 to 3 to remove the encroachment made by the respondents 4 to 6 on the municipal Corporation street in T.S.No. 36D2, Kuyilanthopu 3rd street, near Angalamman Temple, Karungalpalayam, Erode.

For Petitioner : Mr.C.Prakasam

For R1 and R3 : Mr.V.Shanmuga Sundar
Special Government Pleader

For R2 : Mr.M.Rajamathivanan
Standing Counsel

For R4 and R6 : Mr.N.Chinnaraj

O R D E R

(Order of the Court was made by M. SATHYANARAYANAN, J.)
(Through Video Conferencing)

The petitioner is the resident of No.88/1, Selvam Nagar 4th Street, Kumalankuttai, Erode - 638 011, and she would aver among other things that she along with her daughter is residing in the above said address and she was issued with House Site Patta by the Special Tahsildar, Town Survey, Erode, in Patta No.7317 in T.S.No.D-33/36. According to the petitioner, on the eastern side of the patta land, there exists a Corporation Street situated in T.S.No.36D2, Kuyilanthopu 3rd Street, near Angalamman Temple, Karungalpalayam, Erode, and it is classified as Street as per the Revenue records. It is the specific case of the petitioner that the respondents 4 to 6 had encroached upon the said public road in the form of encroachment and are also causing obstruction and inconvenience, and a representation, dated 26.01.2020 submitted in this regard is yet to invoke any kind of response, and therefore, the petitioner is constrained to approach this Court by filing this writ petition.

2.Learned counsel appearing for the petitioner, on instructions, would submit that the petitioner did not put up any construction in the address in which the petitioner is residing and also specifically submitted that there exists only a small hut and not a regular superstructure, and the said submission, on instructions, is placed on record.

3.Learned Standing counsel appearing on behalf of the 2nd respondent, has drawn the attention of this Court to the counter affidavit as well as the Typed Set of Documents, and would submit that, steps have also been taken to remove the encroachments not only in Kuyilanthoppu 3rd Street, but all other encroachments in Erode Town, and notices have also been issued on 03.07.2020 by invoking Sections 25 8(4), 441 of the Erode Municipal Corporation Act, 2008, and on account of the sudden onset and outbreak of Covid-19 Pandemic, further steps could not be taken, and assures before this Court that all the encroachments would be removed by following due process of law and also by adhering to the principles of natural justice.

4.This Court, taking into consideration the rival submissions and other facts and circumstances, without going into the merits of the claim projected by the petitioner either in her representation or in the present writ petition, directs the official respondents to cause inspection of the petitioner's premises also, to find out whether the petitioner herself is guilty of encroachment or putting unauthorised construction, and apart from taking action in the event of any violation, they

shall also complete the exercise of removal of encroachment on public road/public street by following due process of law and also by adhering to the principles of natural justice, and shall complete the entire exercise within a period of twelve weeks from the date of receipt of a copy of this order/uploading of this order in the website.

This writ petition is disposed of accordingly. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

mkn

To

- 1.The District Collector,
Erode District, Erode.
- 2.The Commissioner,
Erode Municipal Corporation,
Erode, Erode District.
- 3.The Tahsildar,
Erode Taluk, Erode,
Erode District.

+1cc to Mr.C.Prakasam, Advocate, S.R.No. 6610

W.P.No.4822 of 2020

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