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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.10.2021

CORAM:

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.NO.18383 OF 2021

AND

W.M.P.NOS.19590 & 19591 OF 2021

1. Krishnasamy
2. C.Ravi Kumar ... Petitioners

-Vs-

1. The District Collector,
Erode District,
O/o. The Collectorate,
Erode, Erode District.

2. The District Revenue Officer,
Erode District,
Erode, Erode District.

3. The Revenue Divisional Officer,
Erode District,
Erode, Erode District.

4. The Tahsildar,
Kodumudi Taluk,
Erode, Erode District.

5. T.P.Chandrasekaran ... Respondents

PRAYER:- This Petition is filed under Article 226 of the Constitution of India, praying for the issue a Writ of Mandamus, for forbearing the respondents 1 to 4 herein from proceeding with the matter, since the appeal petition dated 05.08.2021 is pending before the 2nd respondent District Revenue Officer and pass orders accordingly.

For Petitioner :: Mr.M.Balasubramanian

For Respondents :: Mr.Yogesh Kannadasan
1 to 4 (Government Advocate)

For Respondent - 5 :: No Appearance



O R D E R

The relief sought for in this writ petition is to forbear the respondents 1 to 4 herein from proceeding with the matter, since the appeal petition dated 05.08.2021 is pending before the 2nd respondent District Revenue Officer and pass orders accordingly.

2. The learned counsel for the petitioner would submit that the 1st petitioner is owning land in Survey No.14/1, and having patta in his name. The 2nd petitioner is having a house and paying property tax to the local bodies nearly a decade. If the 5th respondent herein owning a rice mill in the residential area to enlarge the width of the existing block top Road to facilitate his lorries to run freely, he has filed a Civil Suit in O.S.No.2 of 2018 on the file of the District Munsif cum Judicial Magistrate, Kodumudi, against one Ramasamy which is pending. Suppressing the pendency of the Civil suit, the 5th respondent filed a Public Interest Litigation as if the road is blocked by some encroachers. As usual the Division bench of this Hon'ble Court at the admission stage issued some direction to the authorities to consider the representation of the 5th respondent after offering opportunity to all the person concerned. Any order passed by the respondent, the aggrieved person may challenge the order by way of legal remedies, otherwise than by way of a public interest litigation after establishing his locus standi. The said order passed on 08.03.2021 in W.P.No.5447 of 2021. The 2nd petitioner also arrayed as a respondent in the aforesaid public interest litigation. It appears that the 5th respondent herein suppressed the factum of owning a Rice Mill in the residential area and pleaded for the alleged expansion of road for the school children under the guise of public. The representation signed by the 5th respondent herein scored off and written as village public, the affidavit in W.P.No.5447 of 2021 attested by the Advocate who is the counsel for 5th respondent herein in the pending suit, deliberately suppressed the factum of pendency of the suit as well as the Rice Mill owned by the him.

3. It has been further submitted that the Survey No.14/1 is the patta land and 'A' register also stands in the name of the petitioners. The second petitioner is owning a House and paying property tax and electricity connection more than a decade. The 5th respondent herein as a Mill owner influenced the Revenue officials to pass order in his favour. Though the 2nd respondent received their representation without hearing them, they conducted enquiry with the 5th respondent who is running a Rice Mill in a residential area. Already there is a black top road run through the 2nd petitioner's house. The Village road width



is 20 ft. or so. The respondents 3 and 4 arrived at a conclusion, the petitioner and other people are encroachers and going to measure the properties with the help of Police etc., at the instigation of the 5th respondent herein. Under such circumstances, the 2nd petitioner preferred an Appeal against the order dated 22.07.2021 by the 3rd respondent herein before the 2nd respondent herein on 05.08.2021. In spite of the appeal pending before the DRO/the 2nd respondent herein, the 3rd respondent/RDO predetermined the issue that the lands are road Poramboke and proceeds under Section 4 of the Public Premises Act by its order dated 22.07.2021. The 5th respondent is unable to secure order in the Civil Court, suppressing the pendency of the suit, filed the frivolous public interest litigation. However, the Division bench of this Hon'ble Court to safe-guarded the interest of the parties concerned passed a non-committal order. But unfortunately, the 3rd respondent/RDO, totally in support of the 5th respondent/Rice Mill owner, is attempting to disturb their possession and enjoyment of the properties as encroacher. Hence, the 2nd petitioner and other members filed an appeal before the 2nd respondent herein on 05.08.2021, even during the pendency of the appeal, the 2nd respondent herein proceeded with the matter further. Hence, this petitioners have filed the present Writ petition to issue Writ of Mandamus forbearing the respondents 1 to 4 in disturbing their possession and enjoyment of the properties till disposal of the appeal petition dated 05.08.2021 pending before the 2nd respondent herein.

4. The learned Government Advocate for the respondents 1 to 4 would submit that since the appeal petition dated 05.08.2021 is pending before the 2nd respondent, the respondents 1 to 4 may be directed to conduct the enquiry in this regard and pass appropriate orders based on the revenue records in accordance with law.

5. Heard the learned counsel for the petitioner and the learned Government Advocate for the respondents 1 to 4 as well as perused the material available on records.

6. Having considered the facts and circumstances of the case and submissions of the learned counsel on either side, this Court without expressing any opinion with regard to the merits of the case, directs the 2nd respondent/the District Revenue Officer to hold an enquiry whether there is encroachment or not in the said road after affording sufficient opportunity to the parties concerned and pass appropriate orders on the appeal petition dated 05.08.2021 based on the revenue records within a period of four months from the date of receipt of copy of this order in accordance with law.



7. With the aforesaid directions, the Writ petition is disposed of. Consequently, connected miscellaneous petition is closed if any. There shall be no order as to costs.

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Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

Lbm

To:

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Erode District,
O/o. The Collectorate,
Erode, Erode District.
2. The District Revenue Officer,
Erode, Erode District.
3. The Revenue Divisional Officer,
Erode, Erode District.
4. The Tahsildar,
Kodumudi Taluk,
Erode, Erode District.

+2ccs to Mr.M.Balasubramanian, Advocate, S.R.No.52912

W.P.NO.18383 OF 2021 AND
W.M.P.NOS.19590 & 19591 OF 2021

CP(CO)
PBS/08/12/2021