



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:08.09.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

W.P.NO.18448 OF 2021

AND

W.M.P.NO.19674 OF 2021

Ekambaram,
S/o. Narasiman

... Petitioner

Versus

1. State represented by its
Inspector of Police,
(Law & Order)
M-3, Puzhal Police Station,
Chennai.

2. Mrs.Susila,
W/o. Srinivasan

... Respondents

PRAYER:

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, forbearing the respondents particularly the 1st Respondent from in any manner interfere with the peaceful, usage, occupation and construction activity of the petitioner, at the instance of the 2nd Respondent except by due process of law.

For Petitioner : Mr.T.S.Rajamohan

For Respondent : Mr.A.Damodaran,
Govt. Advocate (Crl.Side)
for R1

ORDER

(This case has been heard through video conference)

The petitioner filed this Writ Petition seeking interim injunction restraining the 1st Respondent from in any manner interfering with the construction activities of the petitioner at the instance of 2nd respondent.



2. The contention of the petitioner is that he is owner and he is in possession and title of land and building comprised at No.15/8, Kasturi Nagar 1st street, (E.V.R. street) Lakshmipuram, Kolathur, Chennai-600 099. The land has an extent of 1196 sq.ft. One portion consists of 590 sq.ft and another portion consists of 420 sq.ft. The property is abutting 20 ft. road on the eastern side and the petitioner acquired absolute right and title over the property in the year 1998. The petitioner demolished the total structure and put a new structure in the year 2011 with the plinth area of 590 sq.ft. The petitioner now was putting up bathroom cum toilet on the northern side abutting compound wall constructed by the petitioner, which is objected by the 2nd respondent without proper reason. The 1st respondent supporting the 2nd respondent and obstructing the construction. Further, the petitioner produced the copy of the patta, and earlier, a complaint lodged to the Deputy Commissioner of Police, Madhavaram vide current paper No.200 of 2021 and the enquiry was conducted 20.08.2021 and the same closed as it is civil in nature. He would further submit that a civil suit has been filed by the 2nd respondent in O.S.No.122 of 2021, which is pending, and no injunction order has been granted in favour of the 2nd respondent. Hence the petitioner has got no impediment to construct bathroom cum toilet and the 1st respondent police have no authority to obstruct the same.

3. The learned Government Advocate (Criminal side) appearing for 1st respondent would submit that there is already a civil suit is pending between the petitioner and the 2nd respondent. The 2nd respondent and the petitioner are neighbours and they have common passage. There is some dispute with regard to usage of common passage. The common passage has been encroached upon and the petitioner not taking any steps to remove the encroachment. On the other hand, attempting to put up a compound wall across the common passage, which has been objected, and thereafter, a civil suit has been filed. Now, to strengthen his case, he wants to put up bathroom adjacent to the compound wall. The petitioner has got no right over the property and the petitioner is attempting to encroach the common area. Earlier, a civil suit has been filed and the same is pending.

4. Heard submissions of both learned counsel appearing for petitioner and 1st respondent and perused the records.

5. Considering the submissions, this court finds that already a civil suit is pending. If at all, the petitioner has any grievance, he has to approach the civil court and obtain appropriate orders.



6. With the above observation, this Writ Petition Petition is disposed of. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

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Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

rpp/ham

To

1. The Inspector of Police (Law & Order),
M-3, Puzhal Police Station,
Chennai.
2. The Public Prosecutor,
High Court, Madras.

W.P.No.18448 of 2021

KSM(CO)
PM/29/09/2021