



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 08.06.2022

Coram:

THE HONOURABLE MR.MUNISHWAR NATH BHANDARI, CHIEF JUSTICE
AND
THE HONOURABLE MRS.JUSTICE N.MALA

W.P.No.11694 of 2022
and

W.M.P.Nos.11152 and 11154 of 2022

Dr.S.Kanagasundaram

.. Petitioner

Vs.

1. The Commissioner,
Coimbatore City Municipal Corporation,
Big Bazaar Street, Coimbatore-641 001.
2. The Assistant Commissioner,
Coimbatore City Municipal Corporation-East Zone,
Trichy Road, Coimbatore-641 005.
3. The Assistant Executive Engineer (Planning),
Coimbatore City Municipal Corporation-East Zone,
Trichy Road, Coimbatore-641 005.
4. Dr.C.Balasubramaniam
5. Mr.P.Vishnuvardhan
6. Mr.M.Palanisamy
7. Mr.T.Mohan Magesh Kumar
8. Mr.S.Gopalan
9. Mrs.Sarala
10. Mr.G.Sathiyamurthy
11. Mrs.Mary Sathiyamurthy
12. Mr.R.Saravanan
13. Mr.Sampath Iyer
14. Mr.B.Senthilkumar
15. Ms.Sudha Chandrasena
16. Mr.Jose C.Abraham

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus to direct the respondents 1 to 3 to remove the encroachments made by the respondents 4 to 16 in 30 feet East-West Corporation public road branching from Western side of the North-South 40 feet Road



called as Perks Arch Road situated in S.F.No.207, 208/1A Uppilipalayam Village and restore the same to its original position by considering the petitioner's representations/complaints, dated 05.03.2022, 17.03.2022 and 22.03.2022.

For petitioner : Mr.R.Prabakar

For respondents: Mr.K.Magesh, Standing Counsel for RR-1 to 3

ORDER

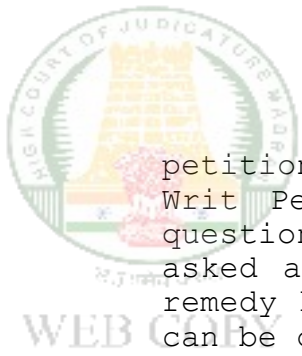
(The Order of the Court was made by The Honourable Chief Justice)

The Writ Petition has been filed to seek a direction on the respondents 1 to 3 to remove the encroachment alleged to have been made by the respondents 4 to 16 in 30 feet East-West Corporation public road branching from Western side of the North-South 40 feet Road called as Perks Arch Road situated in S.F.No.207, 208/1A Uppilipalayam Village.

2. Learned counsel for the petitioner submitted that the respondents 4 to 16 have raised the level of the Road which is going to put the petitioner in trouble during rainy season, because, water would come into his house due to the low level and furthermore, the respondents 4 to 16 have put up a gate so as to deny free access to the petitioner to enter his residential house, and therefore, the present Writ Petition has been filed.

3. To substantiate the arguments, the learned counsel for the petitioner referred to the photographs enclosed along with the Writ Petition, which do not show the raising of the level of the Road by the private respondents and otherwise, it does not demonstrate further that putting a gate for the colony, which includes the petitioner and the entry is otherwise not obstructed, rather remains free. Some measures have been taken in the night and otherwise, the learned counsel appearing for the respondents 1 to 3/Coimbatore City Municipal Corporation submitted that the road in question is not a Corporation Road, rather it is a Road created while carving out the colony by the members of the colony.

4. In view of the aforesaid, Court need not make a factual enquiry as to whether the respondents 4 to 16 are raising the level of the Road, which is apparently not clear from the photographs so as to affect the petitioner in the rainy season and furthermore, to further enquire as to whether the gate is causing any obstruction, because per-se, if it is not the land of the Coimbatore Corporation, thus, dispute remains with the



petitioner vis-a-vis the private respondents, for which, the Writ Petition is not maintainable and otherwise, it involves questions of facts. The learned counsel for the petitioner was asked as to why the petitioner has not pursued the alternative remedy by filing a suit for injunction where the factual issues can be determined. He could not answer.

5. Taking into consideration the over-all facts of the case, we do not find that the private dispute between the parties can be settled in this petition, that too, when it involves questions of facts, which otherwise can be taken up in a civil suit for injunction.

6. In view of the above, this petition is dismissed. There shall be no order as to costs. Consequently, W.M.Ps. are closed.

Sd/-

Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

cs/hvk

To

1. The Commissioner,
Coimbatore City Municipal Corporation,
Big Bazaar Street, Coimbatore-641 001.
2. The Assistant Commissioner,
Coimbatore City Municipal Corporation-East Zone,
Trichy Road, Coimbatore-641 005.
3. The Assistant Executive Engineer (Planning),
Coimbatore City Municipal Corporation-East Zone,
Trichy Road, Coimbatore-641 005.

+1cc to Government Pleader SR. Nos.33610, 33747

+1cc to Mr.K.Magesh, Advocate SR. No. 32890

+1cc to Mr.R.Prabakar, Advocate SR. No. 33240

W.P.No.11694 of 2022

AJB (CO)

PR (15/06/2022)