

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.06.2022

CORAM:

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

W.P.NO.11672 OF 2022

K.Arulmani

... Petitioner

.Vs.

1. The District Collector,
Perambalur District.
2. The Revenue Divisional Officer,
Perambalur,
Perambalur District.
3. The Tahsildar,
Kunnam Taluk,
Perambalur District.
4. The Village Administrative Officer,
Yezhumor Village,
Kunnam Taluk,
Perambalur District.
5. A.Sakthivel

... Respondents

PRAYER:-

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 herein to remove the encroachment made by the fifth respondent in the cart track and vaari, which runs through the land situated in S.Nos.249/3, 252/8 and 251/6, Elumur (West) Village, Kunnam Taluk, Perambalur District, by considering the petitioner's representation dated 20.12.2021 within a time frame to be fixed by this Court.

For Petitioner : Mr.M.R.Kuyilan

For Respondents : Mr.P.Muthukumar
State Government Pleader
Assisted by
Mr.A.Selvendran
Special Government Pleader
For RR-1 to 4

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 made by the fifth respondent on the cart-track and Vaari in S.Nos.249/3, 252/8 and 251/6, Elumur (West) Village, Kunnam Talukl, Perambalur District.

2. The learned counsel for the petitioner made a reference to the proceedings dated 24.08.2021 issued by the Revenue Tahsildar, Kunnam to show encroachment on the cart-track and for appropriate action in the matter.

3. In reference to the aforesaid, we have perused the records and more specifically, the photographs enclosed along with the Writ Petition to indicate the encroachment on the cart-track. In the photographs, we do not find any encroachment, rather, certain stones are lying on the middle of the cart-track. Per-se, it cannot be said to be an encroachment and if at all the stones were put for making obstruction or encroachment, there is nothing on record to show that it was by the fifth respondent, rather, it can be even by the petitioner to frame this petition making allegation against the fifth respondent for encroachment. It is for the reason that a civil dispute exists between the petitioner and the fifth respondent, and therefore, this petition may be to settle the scores with the parties. The photographs do not show either construction of a wall or a building or any other development to the benefit of the fifth respondent. If at all it is taken to be obstruction in taking access to the agricultural land of the petitioner, it is first to be analysed and determined as to whether the stones on the middle of the cart-track, were put by the fifth respondent, or by anyone else. As being factual issue, the same cannot be determined under the Writ jurisdiction. At times, the petitions are filed to settle the scores with those having litigation or to settle the scores within the neighbours. The jurisdiction of this Writ Petition is thereby misused by the parties.

4. The above document referred to by the learned counsel for the petitioner, i.e. dated 24.08.2021, does not indicate that the alleged obstruction was made by the fifth respondent. It can otherwise be removed by the petitioner. It is more so, when the photographs enclosed do not show the stones of such nature which cannot be removed. It could not be clarified otherwise as to how the fifth respondent would be benefited if the stones were put to cause obstruction on the cart-track.

5. Taking over-all facts into consideration, we find that the present Writ Petition is not bona-fide, but for settling the score with the party in litigation with the petitioner.

6. In view of the above, the Writ Petition is dismissed with costs of Rs.10,000/- (Rupees ten thousand only) to be paid to the Tamil Nadu State Legal Services Authority, High Court Buildings, Chennai-600 104, within 15 days.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

cs/hvk

To

1. The District Collector,
Perambalur District.
2. The Revenue Divisional Officer,
Perambalur,
Perambalur District.
3. The Tahsildar,
Kunnam Taluk,
Perambalur District.
4. The Village Administrative Officer,
Yezhumor Village,
Kunnam Taluk,
Perambalur District.

Copy To:-

The Secretary,
The Tamil Nadu Legal Services Authority,
High Court Buildings,
Chennai - 104.

+1cc to the Government Pleader, S.R.Nos.33609 & 33746

W.P.NO.11672 OF 2022

GPL(CO)
PBS/21/06/2022