



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.06.2022

CORAM :

THE HON'BLE MR.MUNISHWAR NATH BHANDARI, CHIEF JUSTICE
AND
THE HON'BLE MRS.JUSTICE N.MALA

W.P.No.15395 of 2022
and W.M.P.No.14553 of 2022

A.Chinnasamy

.. Petitioner

vs

1.The District Collector
Office of the Collectorate
Kallakurichi District.

2.The Tahsildar
Office of the Tahsildar
Chinna Salem
Kallakurichi District.

3.The Block Development Officer
Chinna Selam, Kallakurichi District.

4.The President
Royapanur Panchayat
Chinna Salem Taluk
Kallakurichi District.

5.K.M.Kannan

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the respondents 1 to 4 to dispose off the representation dated 23.05.2020 and consequently remove the encroachment made by 5th respondent in S.No.302/3, Royapanur Village, Chinna Salem, Kallakurichi District.

For the Petitioner : Mr.P.Ponbalaji

For the Respondents : Mr.P.Muthukumar
1 and 2 State Government Pleader



ORDER
(Order of the Court was made by
the Hon'ble Chief Justice)

The writ petition has been filed seeking a direction to the respondents 1 to 4 to dispose of the representation made by the petitioner to remove the encroachment made by the 5th respondent in S.No.302/3, Royapanur Village, Chinna Salem, Kallakurichi District.

2. Learned counsel for the petitioner submits that a basement was constructed by the Government for the purpose of building the PDS Shop, but the 5th respondent, by making encroachment on the said land, demolished the basement and levelled the same with sand. Accordingly, a representation was given by the petitioner to remove the encroachment. As no action was taken on the representation submitted by the petitioner, the present writ petition has been filed. Photographs are enclosed along with the writ petition to show the encroachment.

3. We have considered the submissions made by the learned counsel for the petitioner and perused the records.

4. The present writ petition is not a public interest litigation, but has been filed in the individual capacity of the petitioner. Therefore, the locus of the petitioner is relevant to decide the issue. The petitioner could not show his locus to seek a direction of the nature as sought in this writ petition because, according to the learned counsel, the petitioner is not the owner of the neighbouring land in question, rather he is residing elsewhere, and that apart, the construction of the basement was by the Government.

5. The present writ petition is not maintainable as we are not convinced with the locus of the petitioner. In order to analyze the issue further, we have gone through the records and find that the alleged damage to the basement is by construction of a wall by the fifth respondent. The basement is said to be existing on the road side and the building erected by the fifth respondent is behind the alleged encroached land. From the photographs enclosed in the records, we do not find any basement which even otherwise cannot exist in front of the building to obstruct the approach to the road. The said position is apparently clear from the photographs enclosed along with the petition.

6. The reason as to why the petitioner did not file any suit for injunction if the fifth respondent was erecting a building after making an encroachment remains unexplained. The



building so erected is a two storey building and it could not have been constructed over night. Thus, keeping in mind the aforesaid, we do not find any case in favour of the writ petitioner. We cannot traverse much on facts as this Court has a very limited jurisdiction under Article 226 of the Constitution of India.

7. For all the above reasons, we do not find any merits in the writ petition and the same is accordingly dismissed. No costs. Consequently, connected miscellaneous petition in W.M.P.No.14553 of 2022 is also dismissed.

Sd/-

Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

kst

To:

- 1.The District Collector
Office of the Collectorate
Kallakurichi District.
- 2.The Tahsildar
Office of the Tahsildar
Chinna Salem
Kallakurichi District.
- 3.The Block Development Officer
Chinna Selam, Kallakurichi District.
- 4.The President
Royapanur Panchayat
Chinna Salem Taluk
Kallakurichi District.

+1cc to the Government Pleader, S.R.No.38212

+1cc to the State Government Pleader, S.R.No.38964 (29/06/2022)

W.P.No.15395 of 2022

AJS (CO)
SB(29/06/2022)