



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.01.2022

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WEB COPY

THE HONOURABLE Mr. JUSTICE G.K.ILANTHIRAIYAN

WP.No.22614 of 2021 and

WMP.No.23854 of 2021

M.Sivasamy

... Petitioner

Vs

- 1.The Director of Survey and Settlements,
Chepauk, Chennai 600 005
- 2.The District Collector,
Coimbatore District,
Coimbatore 641 018
- 3.The Commissioner,
Coimbatore City Municipal Corporation,
Coimbatore 641 001
- 4.The Assistant Commissioner,
Coimbatore City Municipal Corporation - North Zone,
Coimbatore 641 037
- 5.The Assistant Director,
Department of Land Survey and Records,
Collectorate, Coimbatore 641 018
- 6.The Revenue Divisional Officer,
Coimbatore North,
Coimbatore 641 030
- 7.The Tahsildar,
Coimbatore North Taluk,
Coimbatore 641 018
- 8.The Town Sub Inspector of Survey,
Coimbatore City Municipal Corporation (North Zone),
Coimbatore 641 037
- 9.The Kovai Mavatta Kulalar Mandram
Represented by State President Rajagopal,
Thiyagi Kumaran Street,
SF.No.280, Ganapathi Village,
Coimbatore 641 006



10.P.Rangaraj

11.D.Pradeepa

12.C.Sangeetha

... Respondents

WEB COPY

Prayer :- Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents 1 to 7 to restore the breadth and width of the public road namely Thiru.Vi.Ka.Street in SF.No.280, Ganapathy Village, Coimbatore, now TS.No.48, Block No.19, Ward No.T(20), within Coimbatore City Corporation, to its original measurements as shown in Field Measurement Book Plan dated 24.03.2011 issued by the 8th respondent herein.

For Petitioner : Mr.A.E.Ravichandran

For Respondent s

For R1, 2, 5 to 8 : Mr.V.Jeevagiridharan,
Additional Government Pleader

For R3 & 4 : Mr.K.Magesh,
Standing Counsel

For R9 : Mr.C.Prakasam

ORDER

This writ petition is filed for direction directing the respondents 1 to 7 to restore the breadth and width of the public road namely Thiru.Vi.Ka.Street in SF.No.280, Ganapathy Village, Coimbatore, now TS.No.48, Block No.19, Ward No.T(20), within Coimbatore City Corporation, to its original measurements as shown in Field Measurement Book Plan dated 24.03.2011 issued by the 8th respondent herein.

2. The case of the petitioner is that the petitioner purchased the property comprised in SF.No.280 part admeasuring 2400 sq.ft. situated at Ganapathy Village, Coimbatore, present TS.No.113 and 45 of Coimbatore City Corporation, North Zone from one, S.Balachandran by the registered sale deed dated 27.08.2004 vide document No.3456 of 2004 and also from one, R.Palaniappan by way of another sale deed dated 03.03.2008 registered vide document No.1328 of 2008. Thereafter, the petitioner executed settlement deed in favour of his wife by the settlement deed dated 29.12.2016. There is a lane in TS.No.48 commencing from the east-west Thiyagi Kumaran Street at the southern side and



connecting to Ponnaiar Street at the northern side and then reaches Sathy Main Road. This lane is known as Thiru.Vi.Ka Street and assigned TS.No.48. While being so, the ninth respondent purchased the property comprised in TS.No.52 admeasuring 1807 sq.ft. by the registered sale deed dated 10.04.2002. After purchase, the ninth respondent encroached upon the lane comprised in TS.No.48 and also the property comprised in TS.No.53 belong to one Dhanalakshmi and Saraswathy by putting up construction. Therefore, the petitioner filed suit in OS.No.1952 of 2010 as against the ninth respondent and others for mandatory injunction and to remove the encroachment made in TS.No.48.

3. While pending the said suit, the ninth respondent submitted representation to the sixth respondent to alter the measurements to their property by stating that there was a mistake in Town Survey. Based on the representation, the seventh respondent herein passed order on 03.08.2012 for re-survey of the land including the land comprised in TS.No.48. Therefore, the petitioner filed writ petition in WP.No.23583 of 2012 and by order dated 28.07.2015, this Court set aside the order passed by the seventh respondent and directed the sixth respondent to conduct fresh enquiry. In the meanwhile, the said Dhanalakshmi and Saraswathy also filed suit in OS.No.173 of 2013 on the file of the III Additional Sub Court, Coimbatore as against the ninth respondent herein for declaration and also for removal of encroachment made by the ninth respondent. However, the ninth respondent executed unregistered Will in favour of the tenth respondent and in turn, the tenth respondent executed gift settlement deed dated 20.11.2020 in favour of the eleventh respondent. Thereafter, the eleventh respondent sold out the said property in favour of the twelfth respondent on 26.02.2021. On the strength of the sale deed, the twelfth respondent made construction in TS.No.43 by encroaching the said lane called Thiru.Vi.Ka.Street comprised in TS.No.48. Therefore, the petitioner filed another suit in OS.No.641 of 2021 on the file of the District Munsif Court, Coimbatore as against respondents 9 to 12 for declaration and mandatory injunction to remove the illegal construction put up by them and it is pending. While pending the suit, the seventh respondent by letter dated 24.04.2019 has altered the boundaries in respect of the property in TS.No.48, 52 and 53. The said order was also challenged by the said Dhanalakshmi in WP.No.9349 of 2021 and this Court stayed altering the boundaries by order dated 16.04.2021 and the writ petition is pending. While pending the writ petition, the present writ petition has been filed to restore the breadth and width of the public road i.e. Thiru.Vi.Ka.Street comprised in



SF.No.280, Ganapathy Village in TS.No.48, Block No.19, Ward No.T(20), Coimbatore.

4. Admittedly, the order passed by the seventh respondent herein is under challenge in the writ petition in WP.No.9349 of 2021 and further operation of the said order was stayed by this Court. Therefore, the restoration of breadth and width of the public road comprised in TS.No.48 will arise subject to the result of the writ petition in WP.No.9349 of 2021. In view of the same, the seventh respondent is directed to consider the request of the petitioner subject to the result of the writ petition in WP.No.9349 of 2021.

5. With the above direction, this writ petition is disposed of. Consequently, connected miscellaneous petition is closed. No order as to costs.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

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To

1.The Director of Survey and Settlements,
Chepauk,
Chennai 600 005

2.The District Collector,
Coimbatore District,
Coimbatore 641 018

3.The Commissioner,
Coimbatore City Municipal Corporation,
Coimbatore 641 001

4.The Assistant Commissioner,
Coimbatore City Municipal Corporation - North Zone,
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5.The Assistant Director,
Department of Land Survey and Records,
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6.The Revenue Divisional Officer,
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9.The Kovai Mavatta Kulalar Mandram
Represented by State President Rajagopal,
Thiyagi Kumaran Street,
SF.No.280, Ganapathi Village,
Coimbatore 641 006

+1cc to Mr.A.E.Ravichandran, Advocate SR.No.720
+1cc to the Government Pleader SR.No.636

WP.No.22614 of 2021

VSN II(CO)
GN(11/01/2022)