



W.P.No.2766 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.02.2023

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

Writ Petition No.2766 of 2023
and W.M.P.No.2878 of 2023

A.Kandaswamy

.... Petitioner

-Vs-

1 The District Collector
Collectorate Building Coimbatore
Tamil Nadu- 641 018.

2 The District Revenue Officer
Collectorate Building Coimbatore
Tamil Nadu- 641 018.

3 The Revenue Divisional Officer
8/1A Huzur Road Gopalapuram
Coimbatore South Coimbatore- 641 018.

.... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the Respondents to consider the representation of the Petitioner dated 02.01.2023 sent to the Respondents and to leave open the 16 ft wide pathway from fencing in S.No.85/1 leading from the vadavalli to Somaiyampalayam main Road to the land of the Petitioner in S.No.85/2 Vadavalli Village Perur Taluk Coimbatore District.

For Petitioner : Mr.S.T.S.Murthi, Senior Counsel
For Respondents : Mr.P.Sathish
Additional Government Pleader

ORDER



W.P.No.2766 of 2023

WEB COPY

The prayer sought for herein is for a Writ of Mandamus directing the Respondents to consider the representation of the Petitioner dated 02.01.2023 sent to the Respondents and to leave open the 16 ft wide pathway from fencing in S.No.85/1 leading from the vadavalli to Somaiyampalayam main Road to the land of the Petitioner in S.No.85/2 Vadavalli Village Perur Taluk Coimbatore District.

2. It is the claim of the petitioner that the property situated at S.No.85/2 Vadavalli Village, Perur Taluk, Coimbatore District was purchased by the petitioner to the extent of 4 cents. Before purchasing the property, the predecessor-in-title had been enjoying the ingress and egress to the extent of 16 ft wide pathway at S.No.85/1 and this has been the ingress and egress to the property of the petitioner since it has been used accordingly for 70 years and more. Now the revenue authorities especially the 3rd respondent Tahsildar, according to the learned Senior Counsel for the petitioner is attempting to make some fencing to cover the entire land at S.No.85/1. By thus preventing the ingress and egress of the petitioner towards his property at S.No.85/2 as stated supra, in order to give the 16 feet wide pathway to reach the petitioner's property and the remaining property to be fenced as proposed by the 3rd respondent, the petitioner had given a representation on 02.01.2023 to the respondents. The said representation since has not been considered and no



W.P.No.2766 of 2023

action has been taken, and in the meanwhile the 3rd respondent is trying to put up some fence on the land in question, the petitioner has rushed to this Court by filing the present writ petition.

3. Reiterating the aforesaid, the learned Senior Counsel appearing for the petitioner would submit that, all the necessary documents have been filed along with the said representation dated 02.01.2023 and the Tahsildar concerned / revenue authorities in the locality can enquire and measure the land to come to a conclusion as to the actual pathway that was put in use for more than 70 years even by the petitioner's predecessor-in-title and accordingly the said land can be earmarked for pathway and the remaining land alone can be fenced for the purpose of the respondent department. However, instead of the aforesaid, the respondents since are trying to put up a fence, by thus the entire ingress and egress of the petitioner would be completely prevented, the petitioner having no other option, has approached this Court, he contended.

4. Heard Mr.P.Sathish, learned Additional Government Pleader who would submit that, the said representation submitted by the petitioner would be considered and in this regard necessary steps would be taken by the Revenue Department by conducting a survey in the spot itself by the Revenue Tahsildar with the Surveyor and thereafter after enquiry as to whether the petitioner's



W.P.No.2766 of 2023

predecessor-in-title had been in possession and enjoyment of the easementary right like ingress and egress towards their property at S.No.85/2 and based on such enquiry, a decision would be taken at the earliest time that may be stipulated by this Court, he contended.

5. I have heard the submissions made by the learned counsel for both sides and have perused the materials placed on record.

6. As has been pointed out by the learned Additional Government Pleader, the issue can be sorted out by deputing the Tahsildar concerned by the respondents herein along with the surveyor to earmark the 16 feet wide pathway towards the ingress and egress of the petitioner's property, of course after conducting a local enquiry as to the usage of the said pathway not only by the petitioner but also the predecessor-in-title for more than 70 years and accordingly earmark the portion to be left out for the purpose of ingress and egress of the petitioner and the remaining portion of the property can be fenced by the revenue authorities accordingly. The needful as indicated above shall be undertaken by the respondents within a period of eight weeks from the date of receipt of a copy of this order. It is made clear that, at the time of conducting the local enquiry or surveying the land property, prior notice shall be given to the petitioner also and in the presence of the petitioner, such exercise shall be



W.P.No.2766 of 2023

undertaken. Till such time, the petitioner's ingress and egress to his property at S.No.85/2 through the said 16 feet wide pathway at S.No.85/1 shall not be disturbed.

7. With the above directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

01.02.2023

Index : Yes/No
Neutral Citation : Yes/No
Speaking Order / Non-speaking order
KST
To

- 1 The District Collector
Collectorate Building Coimbatore
Tamil Nadu- 641 018.
- 2 The District Revenue Officer
Collectorate Building Coimbatore
Tamil Nadu- 641 018.
- 3 The Revenue Divisional Officer
8/1A Huzur Road Gopalapuram
Coimbatore South Coimbatore- 641 018.



WEB COPY



W.P.No.2766 of 2023

R. SURESH KUMAR, J.

KST

W.P.No. 2766 of 2023

01.02.2023