



W.P.No.17920 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.09.2023

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

W.P.No.17920 of 2020
and W.M.P.Nos.22203 and 22205 of 2020

T.M.Krishnamoorthy

... Petitioner

VS.

1.The Erumapalayam Panchayat,
Represented by The Executive Officer,
Erumapalayam Village & Post,
Erumapalayam, Salem – 636 015

2.The Block Development Officer,
Salem Panchayat Union,
Kollapatti Village & Post,
Salem

3.The Director of Rural Development & Panchayat Raj,
Panangal Building, Chennai – 600 015

4.The District Collector,
Salem District, Salem

5.The President,
Erumapalayam Panchayat,
Erumapalayam Village & Post,
Erumapalayam, Salem – 636 015

... Respondents



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PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the respondents to remove the compound wall constructed on 08.10.2020 across S.No. 55/3A5 & 55/3A2A of Erumapalayam Village, Salem Taluk and District, as per its mandate under Section 131 of the Tamil Nadu Panchayats Act, 1994.

For Petitioner : Mr.P.Thirunarayanan

For Respondents : Mr.U.Baranidharan
Additional Government Pleader

ORDER

The petitioner herein seeks a direction to the respondents to remove the compound wall constructed in S.No.55/3A5 and 55/3A2A of Erumapalayam Village, Salem Taluk and District.

2. According to the petitioner, the 5th respondent has constructed a Wall in the public road preventing the access of the petitioner from his property to the public road. Therefore, he sought for direction to the respondents to remove the compound wall constructed in S.No.55/3A5 and 55/3A2A of Erumapalayam Village, Salem Taluk and District, which according to the petitioner, is constructed in public road.



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3. The learned Additional Government Pleader appearing for the respondents by taking this Court to the counter affidavit filed by the 5th respondent, submitted that at the time of executing the Gift Deed in favour of the 5th respondent/Panchayat, the owner of the layout retained the portion of the land in which the compound wall alleged by the petitioner stands. Therefore, the compound wall alleged by the petitioner does not stand in the public road vested with the 5th respondent/Panchayat. It is further submitted by the learned Additional Government Pleader that when the compound wall alleged by the petitioner stands in the name of the private property, the petitioner is not entitled to seek removal of the same by the 5th respondent.

4. The petitioner has come up with this writ petition on a specific averment that the 5th respondent constructed a compound wall in the public road vested with the 5th respondent/Panchayat, so as to prevent the access to the road. Now, the 5th respondent has filed a counter affidavit stating that the compound wall alleged by the petitioner is not standing in the public road and it is standing in a private property.



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5. In view of the disputed question of fact with regard to the ownership of the land in which the alleged compound wall stands, this Court is not in a position to issue any positive direction to the 5th respondent to remove the compound wall. If the compound wall in question stands in the private property, it is for the petitioner to workout his remedy as against him by filing appropriate Civil Suit.

6. With the above observation, the writ petition stands dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

12.09.2023

Index : Yes/No
Speaking order: Yes/No
Neutral Citation: Yes/No
dm



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To

WEB COPY

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S.SOUNTHAR, J.

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