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W.P.No.5944 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.10.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.5944 of 2018
and W.M.P.No.7319 of 2018

M.Angaiyan

... Petitioner

-Vs-

1. The Commissioner,
Coimbatore Corporation,
Coimbatore- 641 001.
2. The Assistant Commissioner,
Coimbatore Corporation,
South Zone, Coimbatore.
3. The Assistant Town Planning
Officer (South Zone),
Kuniamuthur,
Coimbatore- 641008.
4. The Commissioner of Police,
Coimbatore- 641018.

... Respondents

Prayer : Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Mandamus, forbearing the respondents from interfering with the petitioner's peaceful possession and enjoyment of the property situate in Survey No.533/6 and 533/5 with definite boundaries at Ward No.3, Kempatty Colony, Coimbatore Taluk, Coimbatore Sub Registration and Registration District.



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For Petitioner : Ms.V.Shrivarshini
for Mr.I.Abrar Md Abdullah
For R1 and R2 : Mr.K.Magesh
Standing Counsel
For R3 : Mr.V.Manoharan
Additional Government Pleader
For R4 : Mr.R.Kishore Kumar
Government Advocate (Crl.side)

ORDER

This writ petition has been filed for direction restraining the respondents from interfering with the petitioner's peaceful possession and enjoyment of the property situate in Survey Nos.533/6 and 533/5 with definite boundaries at Ward No.3, Kempatty Colony, Coimbatore Taluk, Coimbatore Sub Registration and Registration District.

2. Heard both sides and perused the materials available on record.

3. The petitioner owned property comprised in S.Nos.533/6 and 533/5, situated at Ward No.3, Kempatty Colony, Coimbatore Taluk, Coimbatore. This property was originally allotted in favour of the petitioner's mother as per the Judgment and Decree passed in O.S.No.325/1964. While being so, the third respondent, on 30.01.2018 attempted to remove the fencing put up by the petitioner. Therefore, the petitioner submitted a representation to restrain the respondents from removing the fencing put up in and around the petitioner's



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property.

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4. A perusal of the counter filed by the first respondent and the submissions made by the learned Standing Counsel appearing for the respondents 1 and 2 revealed that the property comprised in T.S.No.533/6 and 533/4 situated at Ward No.3, Block No.9, Kempatty Colony, Coimbatore Taluk, Coimbatore is originally covered under 40 feet scheme road, as per one of the schemes of the Local Planning Authority of Coimbatore to an extent of 1200 sq.ft of land lying in S.F.No.533/4, ad-measuring 800 sq.ft in S.F.No.533/5, ad-measuring 1000 sq.ft in S.F.No.533/6 situated at Ward No.3, Block No.9, Kempatty Colony, Coimbatore Taluk, Coimbatore. Originally, the owners of the land developed the said property in the name of Jeevabharathy Nagar and as per the layout, 40 feet land was proposed for formation of the road. Therefore, the petitioner has no right over the 40 feet road. While being so, the petitioner, all of a sudden had put up fencing in 40 feet road and caused hindrance to the general public for the usage of the said road. In fact, some of the residents in the said layout called Jeevabharathy Nagar filed a suit in O.S.No.1641 of 2010 for permanent injunction as against the persons who had attempted to encroach the 40 feet road. The Civil Court passed a Judgment and Decree dated 24.06.2015 by ascertaining existence of 40 feet road.



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5. In view of the above, the respondents 1 to 3 are directed to survey the petitioner's property comprised in Survey Nos.533/6 and 533/5 Ward No.3, Kempatty Colony, Coimbatore Taluk, Coimbatore to survey the petitioner's property as per their parent documents. As per the survey report, if any land which was originally earmarked for road is encroached by the petitioner, the respondents 1 to 3 are directed to take appropriate action as against the petitioner and restore the road portion in its original position. If there is no encroachment by the petitioner, the respondents are directed not to interfere with the peaceful possession and enjoyment of the property owned by the petitioner.

6. With the above directions, this writ petition is disposed of. Consequently, connected Miscellaneous petition is closed. There shall be no order as to costs.

04.10.2024

Internet: Yes
Index : Yes/No
Speaking/Non Speaking order
Neutral Citation : Yes/No
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