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W.P.No.22629 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.09.2024

CORAM:

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

W.P.No.22629 of 2019
and
W.M.P.No.22090 of 2019

R.Poomathi

.... Petitioner

Vs

1.The Corporation Commissioner,
Erode District,
Erode.

2.The Authorized Officer,
Rep by the Elavamalai Cooperative
Building Society Limited,
Elavamalai, Bhavani Taluk,
Erode District.

.... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Mandamus directing the first respondent to remove the obstructions on the 23 feet north-south road situated on the eastern side of her residence enabling to access the petitioner to the residence in view of the fundamental right guaranteed under Article 21 of the Indian Constitution.

For Petitioner

: Mr.B.Mohan

For R1

: Mr.M.Rajamathivanan
Standing Counsel



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ORDER

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This Writ Petition has been filed for a direction, directing the first respondent to remove the obstructions on the 23 feet North-South road situated on the eastern side of the petitioner's house enabling to access the petitioner to the residence.

2. Heard the learned counsel appearing for the petitioner and the learned Standing Counsel appearing for the first respondent and perused the materials available on record.

3. The petitioner's family had owned a property in R.S.No.197/1-6, 198/1-6 admeasuring 4.27 hectares situated at Arul Velavan Nagar, Soolai, Veerappan Chatram, Erode. On the eastern side of the property, there is a public road running North South measuring to an extent of 130 feet of length in North South and 23 feet of breadth. It enjoins the main roads on either side and it is the only access to the petitioner's residence. While being so, the second respondent entered into a sale agreement and allotted a plot No.26 measuring to an extent of 2925 sq.ft. to one Palanisamy, by a sale deed dated 11.11.2019. In fact, the second respondent only developed the layout by constructing the



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house plots. As per the layout, the first respondent had formed a park and thereby encroached 15 feet of the North South public road. Hence, the petitioner's family members raised objections. The petitioner's daughter also filed a suit in O.S.No.71 of 2019 on the file of the Principal District Munsif, Erode for injunction restraining the first respondent from putting any wall or construction on the North South situated on the eastern side of the petitioner's property.

4. A perusal of the counter filed by the first respondent reveals that the first respondent, in order to develop the Corporation as per the layout approval, started the construction of a park on the northern side of the plot Nos.26 and 27. While being so, the petitioner's daughter submitted a representation dated 09.02.2019 with the same allegation. It is further stated that the petitioner and her family members attempted to encroach upon the area which is allotted for the park. Therefore, the Association, viz., Arul Velavan Nagar Nala Sangam, submitted a representation to the District Collector, Erode for taking appropriate action. Accordingly, the District Revenue Officer, by the proceedings dated 16.04.2019, communicated to the first respondent to remove the encroachment made by the petitioners and others.



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5. Therefore, the petitioner is also an encroacher of the land which is earmarked for the park. That apart, the petitioner's daughter already filed a suit in O.S.No.71 of 2019 on the file of the Principal District Munsif, Erode as against the first respondent and it is pending without passing any interim order. Therefore, this writ petition lacks merits and it is liable to be dismissed.

6. Accordingly, this writ petition stands dismissed. Consequently, connected miscellaneous petition is closed. No costs.

23.09.2024

Internet: Yes

Index : Yes/No

Speaking/Non Speaking order

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To

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Erode.

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Rep by the Elavamalai Cooperative
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Elavamalai, Bhavani Taluk,
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G.K.ILANTHIRAIYAN. J.

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