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W.P.No.19402 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN
AND
THE HONOURABLE MR.JUSTICE K.RAJASEKAR

WP.No.19402 of 2019
WMP.Nos.18889 and 18891 of 2019

1. J.Baskar
2. Kalpana
3. Sethupathi
4. Divakar
5. Marimuthu
6. Nagammal
7. Sakunthala
8. Saroja

Petitioners

-Vs-

1. The District Collector, Thiruvallur
2. The Revenue Divisional Officer, Ponneri, Thiruvallur
3. The Block Development Officer, Gummidipoondi Panchayat Union
Thiruvallur
4. The Tahsildar, Gummidipoondi, Thiruvallur
5. Ponnusamy
6. Thandapani
7. Kalappa Reddy
8. Dasarathan 2 Parthiban

Respondents

Prayer:- This Writ Petition is filed to issue a Writ of Mandamus, directing the Respondents 1 to 4 to issue a statutory notice to the Respondents 5 to 8 and conduct an enquiry and evict them through due process of law in respect of an encroachment made by them in the public road, comprised in S.No.72, Thandalacheri Village, Gummidipoondi Post and Taluk, Thiruvallur District, as described in the Adangal and FMB and in terms of the communication sent in



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Na.Ka.No.5327/2017/A2, dated 28.11.2017, by the 2nd Respondent to the 4th Respondent.

For Petitioners : Mr.G.Ethirajulu

For Respondents : Mr.A.Selvendran, SGP-RR1 to 4

ORDER

(Order of the Court was delivered by S.Vaidyanathan,J.)

1. This Writ Petition is filed to issue a Writ of Mandamus, directing the Respondents 1 to 4 to issue a statutory notice to the Respondents 5 to 8 and conduct an enquiry and evict them through due process of law in respect of an encroachment made by them in the public road, comprised in S.No.72, Thandalacheri Village, Gummidipoondi Post and Taluk, Thiruvallur District, as described in the Adangal and FMB and in terms of the communication sent in Na.Ka.No.5327/2017/A2, dated 28.11.2017, by the 2nd Respondent to the 4th Respondent.
2. The case of the Petitioners is that they are the absolute owners of the land and building comprised in S.Nos.76/C, 76/2, 76/7C as mentioned in the petition and that the Respondents 5 to 8, who are in occupation of the land comprised in S.No.73 on the Western side of the road, have encroached upon the road comprised in S.No.72, Thandalacheri Village, Gummidipoondi Post and Taluk, Thiruvallur District and put up a building, in spite of several



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objections made by them. Hence, the Petitioners have sent a representation dated 07.12.2017 to the Official Respondents to initiate action against them.

The 2nd Respondent, by proceedings dated 28.11.2017, forwarded the said representation to the 4th Respondent, to initiate action to remove the alleged encroachment. Since no action was taken by the Official Respondents in this regard, the Petitioners have sent another representation, dated 31.12.2018 to the Official Respondents. Since so far no action taken by them, this Writ Petition has been filed, seeking the prayer as stated above.

3. This Court heard the learned counsel on either side and also perused the materials placed on record. It is the contention of the learned counsel for the 5th Respondent that they have not encroached any of the public property and the concerned Officials have measured the road in question for the purpose of laying a fresh road properly .

4. Having regard to the facts and circumstances of the case, the Official Respondents are directed to conduct a detailed enquiry in respect of the alleged encroachment, as alleged by the Petitioners, after affording opportunity to all the parties concerned, including the ones, who are likely to be affected in the event of removal of alleged encroachment, by verifying all the connected revenue records and thereafter, take a decision with regard to the grievance of the Petitioners, on merits and in accordance with law, within a period of three months from the date of receipt of a copy of this order. It is



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also made clear that if any encroachment, as alleged by the Petitioners, is made out, the same needs to be removed, immediately after taking such a decision by the concerned Official Respondents.

5. It is pertinent to mention here that the road earmarked in a layout, whether it be approved or unapproved, is final and cannot be allowed to be altered and encroached by anyone. There is no need to go into the question of approved layout / unapproved layout, when it is apparent that a portion of the earmarked road has been encroached. No person can be permitted to encroach upon a public road, so as to shrink / narrow down the width of it and in that event, the purpose of allocation of certain portions of the land for laying roads in a layout would be defeated. If the road width is not maintained and periodically inspected by the Officials to ascertain as to whether there is any encroachment or not on the street, departmental action will have to be taken against the concerned Officials, including Assistant Engineer, Assistant Executive Engineer, Executive Engineer, etc., of the relevant Departments. If there is any dereliction on the part of the authorities concerned to initiate action against their subordinates stated supra, on the complaint given by the complainant or any person, disciplinary action will have to be taken by the Government against the erring Officials for flouting the orders / directions of this Court. This direction should be uniformly applied to all cases that are pending before this Court or any other Forum. Last but not the least, this Court wants to emphasize that the Registering



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Authority must insist upon the parties, who register a document with regard to immovable properties under the Registration Act, 1908 to specifically mention extent / width of the road, if the schedule to the document contains a street or road as one of its boundaries, as found in the layout or the earliest documents. This will prevent the shrinking / extinction of road in a layout.

6. With the above directions, this Writ Petition is disposed of. No costs.
Consequently, the connected WMPs are closed.

(S.V.N.J.) & (K.R.S.J.)
22.01.2024

Index:Yes/No
Web:Yes/No
Speaking/Non Speaking
Srcm

To

1. The District Collector, Thiruvallur
2. The Revenue Divisional Officer, Ponneri, Thiruvallur
3. The Block Development Officer, Gummidipoondi Panchayat Union Thiruvallur
4. The Tahsildar, Gummidipoondi, Thiruvallur



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