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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.06.2015

CORAM:

THE HON'BLE MR.JUSTICE S.MANIKUMAR

AND

THE HON'BLE MR.JUSTICE G.CHOCKALINGAM

W.P. (MD) No.9591 of 2015

S.SONAI

.. Petitioner

Vs.

1. THE DISTRICT COLLECTOR,
COLLECTORATE BUILDING, MADURAI.

2. THE PRESIDENT,
KOVIL PAPPAKUDI PANCHAYAT,
MADURAI WEST PANCHAYAT UNION,
MADURAI DISTRICT.

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a writ of Mandamus directing the respondents to erect and start solid waste management scheme approved by Government of India in S.No.173/1 at Kovilpappakudi Panchayat, Madurai West Panchayat Union, Madurai District within a stipulated period.

For Petitioner : Mr.G.Maruthiah

For Respondents : Mr.B.Pugalenth
Special Government Pleader

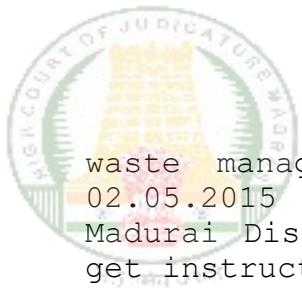
O R D E R

(The order of the Court was made by S.MANIKUMAR, J.)

Ward member of a Kovilpappakudi Panchayat, Madurai West Panchayat Union, Madurai District, has sought for a writ of Mandamus directing the District Collector, Madurai and the President of Kovilpappakudi Panchayat, Madurai West Panchayat Union, Madurai District, respondent Nos.1 and 2 to erect and start solid waste management scheme approved by Government of India, in S.No.173/1 at Kovilpappakudi Panchayat, Madurai West Panchayat Union, Madurai District.

2.The petitioner has further contended that the above said site has been chosen for implementing the scheme. But Funds for the scheme were also sanctioned. The work was not taken up. Hence, he made a representation dated 02.05.2015 to the respondents to commence the work. There is no response. Hence, he is constrained to file a writ of mandamus for the reliefs as stated supra.

3.When the matter was taken up, in the Forenoon, having regarding to the resolution, dated 16.07.2014, passed by the Block Development Officer, Madurai West Panchayat Union, vide proceedings in Na.Ka.No.45/2015/33, dated 24.04.2014 directing the President of Panchayats, to dig up seven pits towards implementation of the solid



waste management scheme (clean India) and the representation dated 02.05.2015 of the writ petitioner addressed to the District Collector, Madurai District, we directed the learned Special Government Pleader to get instructions.

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4. In response to our directions, Mr. B. Pugalandhi, learned Special Government Pleader admitted that the above said site has been chosen for implementing the solid waste management scheme (clean India) of the Government of India.

5. While digging was in progress, at the site one Ponnammal made objections stating that in respect of land in survey No. 173/1, she had been issued with 'B' memo by the Tahsildar, Madurai West and she has also given a police complaint. Police, who arrived at a spot, directed peace to be maintained and in such circumstances, work was not continued.

6. Learned Special Government Pleader further submitted that though the petitioner is aware of the said fact, he has suppressed the same in the supporting affidavit.

7. Heard the learned counsel appearing for both the parties and perused the materials available on record.

8. Fact, that Government Poramboke Land, in Survey No. 173/1 has been identified for carrying out solid waste management scheme (clean India), is not disputed. Directions dated 24.04.2014 have also been given by the Block Development Officer, Madurai West Panchayat Union, to dig up seven pits in the villages, towards implementation of the solid waste management scheme (clean India) and he has further directed that special attention should be given for commencement of the project, by 01.05.2015. However, when the work was started, one Ponnammal of the said village, had objected to the same, for the reasons stated supra.

9. Thus, knowing fully well that she had objected to the continuation of work, the petitioner seemed to have made a representation, dated 02.05.2015, to the District Collector, Madurai District, requesting for removal of encroachment and for completion of the work.

10. As rightly pointed out by the learned Special Government Pleader, though the writ petitioner is aware that there was an objection and alleged encroachment, which he had sought for, to remove, vide representation dated 02.05.2015, addressed to the District Collector, Madurai, he has not chosen to make any specific averments in the supporting affidavit filed in this writ petition.

11. All that he had stated in the supporting affidavit is that though the scheme is approved, land was chosen and training was also given, the respondents have not come forward to start the work. Conspicuously, the petitioner has omitted to mention about the alleged action of Ponnammal and the encroachment, which he had sought for removal.



12. Facts as deduced from the supporting materials and the submissions of the learned Special Government Pleader, on instructions, show that there is an objection for continuation of the work in Survey No.173/1 at Kovilpappakudi Panchayat, Madurai West Panchayat Union, Madurai District. Police complaint is also stated to have been filed.

13. In the above said circumstances, we only direct the District Collector, Madurai District being the head of the District Administration/Inspector of Panchayats and the competent authority to monitor the implementation of the scheme, to take appropriate decision and action thereof, as regards the implementation of the solid waste management scheme (clean India) and issue suitable directions to his subordinate officers on the facts and circumstances stated supra, within a period of four weeks from the date of receipt of a copy of this order.

14. The writ petition is disposed of accordingly. No costs.

Sd/-

Assistant Registrar(Per.Admn.)

/True copy/

Sub Assistant Registrar

To

1. THE DISTRICT COLLECTOR,
COLLECTORATE BUILDING, MADURAI.

2. THE PRESIDENT,
KOVIL PAPPAKUDI PANCHAYAT,
MADURAI WEST PANCHAYAT UNION,
MADURAI DISTRICT.

+1cc to Mr.G.Maruthiah,Advocate SR.No.30816

+1cc to Special Govt.Pleader SR.No.31249

Order made in
W.P. (MD) No.9591 of 2015
15.06.2015

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PA/22.06.2015/3P/5C(IT)