



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.02.2015

CORAM:

THE HONOURABLE DR. JUSTICE S.TAMILVANAN

and

THE HONOURABLE MR. JUSTICE V.S.RAVI

W.P. (MD) No.8864 of 2013

and

M.P. (MD) No.1 of 2013

S.Dhanapalan

... Petitioner

Vs.

1.The Revenue Divisional Officer,
Sivagangai Taluk,
Sivagangai Collectorate,
Sivagangai.

2.The Tahsildar,
Sivagangai Taluk,
Sivagangai Collectorate,
Sivagangai.

3.The Inspector of Police,
Sivagangai Town,
Sivagangai.

4.M.Veeriah

5.Ramachandran

6.The Commissioner,
Sivagangai Municipality,
Sivagangai.

(R6 impleaded as per order

dated 03.06.2014 in

M.P. (MD) No.1 of 2014)

... Respondents

PRAYER: The Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the second respondent to enforce the order passed by the first respondent dated 07.03.2013 on the basis of the representation made by the petitioner dated 26.04.2013 and further to take suitable action against the respondents 4 and 5 in accordance with law.

For Petitioner : Mr.N.Ananthapadmanabhan

For Respondents : Mr.B.Pugalendhi, Spl.G.P.for R1 to 3

Mr.S.Bharathy Kannan for R4 and 5

Mrs.Porkodi Karnan for R6

**O R D E R****(Order of this Court was made by S.TAMILVANAN,J.)**

The Writ petition has been filed under Article 226 of the Constitution of India, seeking an order in the nature of Writ of Mandamus, directing the second respondent to enforce the order passed by the first respondent dated 07.03.2013 on the basis of the representation made by the petitioner dated 26.04.2013 and further to take suitable action against the respondents 4 and 5 in accordance with law.

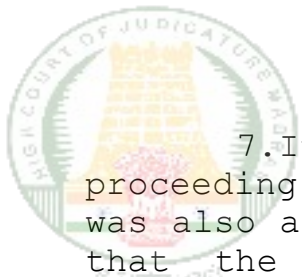
2.Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the other respondents.

3.Learned counsel appearing for the petitioner drew the attention of this Court to the averments made in the accompanying affidavit and also photo copies relating to the disputed place, where autos are seem to be parked.

4.Per contra, learned counsel appearing for the respondents 4 and 5 submitted that the said disputed place was used as auto stand for a number of years and only recently, the petitioner building was constructed and according to him, the avocation of the respondents 4 and 5 is only running autos and therefore, the relief sought for would affect the livelihood of the respondents 4 and 5, which affect their fundamental right.

5.It is not in dispute that it is the fundamental right under Article 19(1)(g) to practise any profession, or to carry on any occupation, trade or business by any citizen, subject to reasonable restrictions. However, one cannot claim it is a matter of right to park auto or any other vehicle detrimental to the rights of the other or detrimental to the interest of the general public.

6.In the instant case, as contended by the learned counsel appearing for the petitioner, the autos are being parked in front of the building of the petitioner. Permanently parking the autos in front of the petitioner's building would not be right of the respondents 4 and 5, as the said parking place is not the property of the respondents 4 and 5 and further, they are entitled to park the vehicle only at the auto stand as per rules and regulations in the place, allotted by the Municipality, Sivagangai, the sixth respondent herein and the revenue authorities. Admittedly, the alleged parking area is a portion of the road which could be used only as a road by the general public and not for permanently parking any vehicle or auto. If at all the respondents 4 and 5 have to park the autos, the same should be parked in the place allotted by the sixth respondent.



7.It is seen in page No.18 of the typed set of papers a proceeding dated 07.03.2013 of the first respondent and the same was also addressed to the second respondent, wherein, it is stated that the encroachment made in Town Survey No.1 and 14 of Sivagangai Town should be removed and reported the same to the first respondent, a copy of the same was also marked to the petitioner.

8.Having considered the facts and circumstances, we find it just and reasonable to dispose of the Writ petition by giving direction to the respondents 1, 2 and 6.

9.Accordingly, the Revenue Divisional Officer, Sivagangai Taluk, Sivagangai, the first respondent herein, is directed to regulate auto parking in the disputed place and the autos shall be parked only in the auto stand or any other place which is allotted for parking the autos so as to avoid inconvenience to the petitioner and the general public in using the road. The compliance of the direction shall be reported to the Registrar, Madurai Bench of Madras High Court, Madurai, within a period of four weeks from the date of receipt of a copy of this order. Before passing any order, the first respondent shall consult with the Tahsildar, Sivagangai Taluk, the second respondent herein and the Commissioner of Sivagangai Municipality, the sixth respondent herein and others, after providing opportunity of hearing the petitioner as well as to the respondents 4 and 5.

10.The Writ petition is disposed of accordingly. No costs. Consequently, connected M.P.is ordered to be closed.

Sd/-

Assistant Registrar(Per.Admn.)

/True Copy/

Sub-Assistant Registrar

To

- 1.The Revenue Divisional Officer,
Sivagangai Taluk, Sivagangai Collectorate, Sivagangai.
- 2.The Tahsildar, Sivagangai Taluk,Sivagangai Collectorate,
Sivagangai.
- 3.The Inspector of Police, Sivagangai Town, Sivagangai.
- 4.The Commissioner, Sivagangai Municipality, Sivagangai.



Copy to: The Registrar (Judicial),
Madurai Bench of Madras High Court, Madurai

+1cc to Mr.N.Anantha Padmanaban, Advocate, in SR. No.7627.

+1cc to Mr.Porkodi Karnan, Advocate, in SR. No.7688.

+1cc to Mr.S.Bharathy Kanan, Advocate, in SR. No.7920.

+1cc to Special Government Pleader, in SR No.8004.

Nbj
msm 27.03.2015 p4/10c

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