



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 27.07.2016

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P(MD)No.7075 OF 2014 & M.P(MD)No.1 of 2014

S.Deepa

..Petitioner

.vs.

1.The Commissioner,
Madurai Corporation,
Madurai.

2.The Executive Engineer,
Tamil Nadu Slum Clearance Board,
Madurai Division,
169, K.K.Nagar, Main Road,
Madurai-20.

..Respondents.

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus to direct the first respondent not to carry out the work of digging in drainage channel in my House Plot comprised in Old Plot No,.170, New Plot No.155, Chokkanathapuram Tamil Nadu Slum Clearance Board Scheme, Villankudi, Madurai North Taluk, Madurai and consequently directing the first respondent to restore my house plots in its original position by considering the petitioner's representation dated 25.03.2014 within the time stipulated by this Court.

For Petitioner :Mr.J.Lawrance

For Respondents :Mr.J.Gunaseelan Muthiah
Govt.Advocate for R1.

:Mr.P.Mahendran for R2

ORDER

The petitioner has filed this Writ Petition for issuing a Writ of Mandamus to direct the first respondent not to carry out the work of digging in drainage channel in petitioner's House Plot comprised in Old Plot No,.170, New Plot No.155, Chokkanathapuram Tamil Nadu Slum Clearance Board Scheme, Villankudi, Madurai North Taluk, Madurai and consequently directing the first respondent to



restore her house plots in its original position by considering the petitioner's representation dated 25.03.2014.

2.The petitioner's case is that she is residing in Door No.4/1-32, Chokkanathapuram, First Street, Villankudi, Madurai. According to her, her house was constructed in Old Plot No.170, New Plot No.155, Chokkanathapuram Tamil Nadu Slum Clearance Board, Villankudi, Madurai North Taluk, Madurai, which was allotted by the Tamil Nadu Slum Clearance Board under a Scheme. The said property which is located in Survey No.113/1B, Villankudi I Bit Village, Madurai North Taluk, Madurai District, originally belongs to the Tamil Nadu Slum Clearance Board. Under the said scheme, the petitioner's father obtained a sale deed by document No.2104 of 2013. The petitioner's father has fenced the plot to avoid encroachment. By a settlement deed dated 31.07.2013, the petitioner has obtained the property from her father.

3.It is the case of the petitioner that the first respondent Corporation has dug up a drainage channel to a depth of about 1/2 meter from the ground level on the western portion of her land for the purpose of draining the drainage water and that the above said ditch dug by the first respondent is passing through her house plot thereby causing nuisance and resulting in serious damage to the existing structure put up by her in the said property. Hence, the petitioner appears to have sent a representation to the first respondent to remove the open drainage dug up in her land to restore the same in its original position.

4. Though the second respondent did not file any counter, the learned Counsel appearing for the second respondent produced a copy of the counter affidavit which according to him was filed in the Court earlier. In the counter affidavit, the second respondent admitted the allotment in favour of the petitioner's father and the gift deed that was executed by the allottee in favour of the petitioner on 31.07.2013. It is the stand of the second respondent that the second respondent office is no way connected with the digging of the channel in the petitioner's plot and that the writ petition is liable to be dismissed as against the second respondent. The first respondent has not filed any counter denying the allegation. The first respondent has no authority to carry out any work within the property of petitioner without her consent.

5. Considering the nature of grievance expressed in the affidavit and the fact that is gathered from the counter affidavit filed by the second respondent, this Court is inclined to pass the following order:-

The first respondent is directed to consider the representation of the petitioner dated 25.03.2014, by holding an enquiry and pass appropriate orders on merits and in accordance with law within a period of six weeks from the date of receipt of



a copy of this order, after giving reasonable opportunity to the petitioner. Till the disposal of the representation dated 25.03.2014, the first respondent shall not proceed with the work of digging the drainage channel over the petitioner's house plot.

6. With the above directions, the writ petition is disposed of. No costs. Consequently, the connected Miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

gsr

TO

1.The Commissioner,
Madurai Corporation,
Madurai.

2.The Executive Engineer,
Tamil Nadu Slum Clearance Board,
Madurai Division,
169, K.K.Nagar, Main Road,
Madurai-20.

+1CC to Mr.P.Mahendran, Advocate Sr.No.39973

+1CC to Mr.J.Gunaseelan Muthiah, Advocate Sr.No.39678

GJM/DB/17.8.16-3p-5c

W.P (MD) No.7075 OF 2014

27.07.2016