



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.09.2016

CORAM:

THE HONOURABLE MR.JUSTICE S.NAGAMUTHU

AND

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

W.P.[MD].No.12957 of 2016

and

W.M.P.(MD)No.9758 of 2016

S.Kathalingam

: Petitioner

Vs.

1.The District Collector,
Collectorate Office,
Madurai.

2.The Divisional Engineer,
(Construction and Maintenance),
Highways Department,
Alagarkovil Road,
Madurai-2.

3.The Commissioner,
Corporation of Madurai,
Anna Maligai,
Madurai-20.

4.The Commissioner of Police,
Madurai City,
Madurai.

5.The Tahsildar,
Madurai South,
Tiruparankundram,
Madurai-5.

6.R.Karmegam

7.R.Nallamani

: Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents 1 to 5 to remove the encroachment of small Karuppanasamy Temple -cum- Rakayee Ammal Samadhi and the street vendors in front of the Temple at S.No.226/4A and S.No.226/4B Madakulam Village, Bye-Pass Road, S.S. Colony, Madurai which is reconstructed illegally after demolition in 2005 and direct the authorities to lay pacca road in that Government land Bye-Pass Road, within a stipulated time as fixed by this Court.



possession continuously and the possession was never taken by the authorities under the Land Acquisition Act.

6. It is also seen from the records that a suit was filed by the sixth respondent in O.S.No.549 of 2005. However, the same was, later on, withdrawn with liberty to file a fresh suit. A fresh suit has been now filed by the sixth respondent in O.S.No.511 of 2016 on the file of the learned Principal District Munsif, Madurai, on 17.08.2016 i.e., long after the filing of the present Public Interest Litigation, wherein he has claimed title in respect of the property in Survey No.226/4A. According to the sixth respondent, as per the new Land Acquisition Act, the title still stands with him, as the possession was never taken by the Government.

7. The learned counsel for the sixth respondent would further bring to our notice that there are two Writ Petitions in W.P.(MD) Nos.16406 and 16202 of 2016, wherein the sixth respondent claimed some relief. In those Writ Petitions, interim orders have been issued by this Court, directing the respondents to maintain *status quo*.

8. In our considered view, when there is such an interim order by the competent Court, after examining the issue as to whether there is any encroachment or whether such encroachment is to be removed or not, it is not possible for this Court to issue any direction in this Public Interest Litigation. The parties are at liberty to work out their remedy before the Civil Court or before the Writ Court, where the Writ Petitions are pending. The Writ Petition is, accordingly, dismissed. No costs. Consequently, the connected miscellaneous petition is also dismissed.

Sd/

Assistant Registrar(CS-II)

/TRUE COPY/

Sub Assistant Registrar

To

1.The District Collector,
Collectorate Office,
Madurai.

2.The Divisional Engineer,
(Construction and Maintenance),
Highways Department,
A. Ponnusamy Road,
Madurai-2.



3.The Commissioner,
Corporation of Madurai,
Anna Maligai,
Madurai-20.

4.The Commissioner of Police,
Madurai City,
Madurai.

5.The Tahsildar,
Madurai South,
Tiruparankundram,
Madurai-5.

+1cc to M/S.S.Manoharan,Advocate in SR.No.54597

+1cc to M/S.N.Shanmuga Selvam, Advocate in SR.No.54816

+1cc to M/S.V.Vinayagamurthy, Advocate in SR.No.54851

Order made in
W.P. [MD] .No.12957 of 2016
Dated: 22.09.2016

SML

PA/GSV-PM/SAR I/26.09.2016/4P/9C