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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.10.2016

CORAM:

THE HONOURABLE MR.JUSTICE **S.NAGAMUTHU**

AND

THE HONOURABLE MR.JUSTICE **M.V.MURALIDARAN**

W.P. [MD].No.19436 of 2016

G.Rajagopal : Petitioner

Vs.

1.The District Collector,
Madurai District.

2.The Commissioner,
Madurai Corporation,
Madurai.

3.The Executive Engineer,
Madurai Corporation,
Madurai.

4.The Assistant Commissioner,
Ward No.95,
Corporation Office,
Thirupparankundram.

5.The Inspector of Police,
Thirupparankundram Police Station,
Thirupparankundram.

6.Mr.C.Thangaraj : Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents 2 to 4 and directing to implement and take necessary action as per the order passed by the third respondent in Ma.Thi.4/26670/2016, dated 02.09.2016 and to remove the obstacles in the 5 feet common path way of North Kammalar Cross Lane, at North Car Street, Thirupparankundram, Madurai, and further direct to ensuring fundamental rights of the people have entitle to live clean and decent environment in their living place and in accordance with law and herein to consider and pass final orders within reasonable time as may be fixed by this Court.



For Petitioner : Mr.P.Venkatesan

For Respondents 1&5 : Mr.S.Chandrasekar,
Government Advocate

For Respondents 2to4 : Mr.T.S.Mohamed Mohideen,
Additional Government Pleader

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O R D E R

[Order of the Court was made by **S.NAGAMUTHU, J.**]

The petitioner has come up with this litigation alleging that the sixth respondent, who is none else than his cousin, has encroached upon a road situated just on the west of the lands belonging to the petitioner and the sixth respondent running in North-South direction branching off from North Rathaveethi. In this regard, the petitioner made a complaint to the Commissioner of Madurai Corporation on 09.06.2016. Acting on the same, the third respondent made an inspection of the spot and found that there was encroachment. Since no further action was taken on the same, the petitioner has come up with this litigation seeking a direction for implementing the proceedings of the third respondent in Ma.Thi.4/26670/2016, dated 02.09.2016.

2. Today, when the matter was taken up for hearing, we have heard Mr.P.Venkatesan, learned counsel for the petitioner, Mr.S.Chandrasekar, learned Government Advocate, appearing for the first and fifth respondents and Mr.T.S.Mohamed Mohideen, learned Additional Government Pleader appearing for the respondents 2 to 4. We have also perused the records carefully.

3. Mr.T.S.Mohammed Mohideen, learned Additional Government Pleader, submitted that there is a personal dispute between the petitioner and the sixth respondent and out of the said motive, the petitioner has come up with this Writ Petition with false claim. He would submit that on receipt of the complaint dated 09.06.2016, when the officials of the Corporation visited the spot, they found that the sixth respondent had stored temporarily only bricks for the purpose of using the same for the ongoing construction on his property. Since it was objected to, on the same day, the sixth respondent had removed the said bricks also. There was no such encroachment at all, as it is alleged, the learned Additional Government Pleader contended. It was only thereafter, the proceedings dated 02.09.2016 was issued informing the petitioner about the same. Despite the same, according to the learned Additional Government Pleader, the petitioner has come up with this Writ Petition with vexatious claim making a false statement. He would submit that there has been encroachment on the main road, namely North Kammalar Cross Lane at North Car Street.



4. The learned counsel for the petitioner is not in a position to controvert the said statement made by Mr.T.S.Mohammed Mohideen, learned Additional Government Pleader.

5. When we pose a specific query to the learned counsel for the petitioner, as to what was the alleged encroachment made by the sixth respondent, he submitted that the sixth respondent had stored only waste materials. From this statement, it is crystal clear that the petitioner has come up with this Writ Petition only to settle his personal score as though by making a false claim that there was encroachment on North Kammalar Cross Lane at North Car Street. Even after the proceedings of the third respondent dated 02.09.2016, the petitioner did not stop his false claim. That is how, he has approached this Court by filing the Writ Petition on 04.10.2016. Therefore, the petitioner is not entitled for any relief in this Writ Petition. The Writ Petition is, accordingly, dismissed. At the same time, for having wasted the valuable time of this Court by abusing the process of this Court, we are inclined to impose heavy cost on the petitioner.

6. Having regard to these facts and circumstances and the time spent unnecessarily on this petition, etc., we deem it appropriate to impose a cost of Rs.8,000/- (Rupees Eight Thousand only) to be paid by the petitioner.

7. The learned Additional Government Pleader appearing for the official respondents submitted that the cost may be utilized for some public purpose.

8. Therefore, we direct that the petitioner shall submit a demand draft drawn in the name of the Registrar (Administration) of this Court for Rs.8,000/- (Rupees Eight Thousand only) and the Registrar (Administration) shall utilize the said fund for purchasing medical equipments for the dispensary, attached to this Court. The cost shall be paid, within a period of four weeks from the date of receipt of a copy of this order.

Sd/-

Assistant Registrar(AS)

/True Copy/

Sub Assistant Registrar

To

1.The District Collector,
Madurai District.

<https://hccourtsonline.ssi.gov.in/>
2.The Corporation Officer,
Madurai Corporation,
Madurai.



3.The Executive Engineer,
Madurai Corporation,
Madurai.

4.The Assistant Commissioner,
Ward No.95,
Corporation Office,
Thirupparankundram.

5.The Inspector of Police,
Thirupparankundram Police Station,
Thirupparankundram.

Copy to

The Registrar(Administrator)
Madurai Bench of Madras High Court,
Madurai

+1 cc to M/S.P.VENKATESAN, Advocate SR.No.62627

+1 cc to M/S.T.S.MOHAMED MOHIDHEEN, Advocate Sr.NO.62847

+1 cc to Special Government Pleader SR.No.62935

Order made in
W.P. [MD] .No.19436 of 2016
Dated: 21.10.2016

SMA/CK/4.11.2016:4P/10C