

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.10.2017

CORAM :

The Hon'ble Ms.INDIRA BANERJEE, CHIEF JUSTICE

AND

The Hon'ble MR.JUSTICE M.SUNDAR

**Review Application (W) No.136 of 2017
(W.P.No.42624 of 2016)**

V.Baskaran

.. Applicant

-VS-

1.The Deputy Director,
Town and Country Planning,
Villupuram District, Villupuram.

2.The Commissioner,
Kallakurichi Municipality,
Kallakurichi.

3.Ramanathan

.. Respondents

Review Application filed under Article 226 of the Constitution of India, seeking to review the order dated 04.01.2017 passed in W.P.No.42624 of 2016 on the file of this Court.

For Applicant : Mr.C.Prabakaran

For Respondents : Mr.T.N.Rajagopalan
Spl.G.P. For RR 1 and 2

* * * * *

ORDER

(Order of the Court was made by M.Sundar, J.)

This review application has been filed with a prayer to review an order of a Division Bench of this Court (in which one of us, M.Sundar,J. was a party) dated 04.01.2017 made in W.P.No.42624 of 2016.

2.In the main writ petition, notice dated 26.11.2016 bearing Na.Ka.No.A1/4370/2015 issued by the Commissioner of Kallakurichi Municipality, Kallakurichi, was called in question.

3.The aforesaid notice dated 26.11.2016 (hereinafter referred to as 'impugned notice' for the sake of convenience and clarity) was issued by the Commissioner of Kallakurichi Municipality, *inter alia*, under Section 182 of the Tamil Nadu District Municipalities Act, 1920, calling upon the noticee therein (writ petitioner before the Division Bench and review applicant before us) to remove the encroachment made by him in a public street.

4.The contention in the writ petition was that the extent of encroachment had not been surveyed and identified. However, after

hearing both sides, vide the aforesaid order dated 04.01.2017, this Court noticed the obtaining position that the impugned notice had been issued after measurement and demarcation at the site. The extent had also been identified as 12.24 sq.mtrs.

5. Therefore, the complaint of the review applicant before us in the writ petition that the extent of encroachment had not been measured and demarcated was found to be incorrect and therefore, his prayer for fresh demarcation was negatived. The Division Bench of this Court had also noticed that the noticee/writ petitioner was given an opportunity and he did not participate in response to the impugned notice.

6. For the sake of convenience, we deem it appropriate to extract the entire order in the writ petition, which reads as hereunder:

"The petitioner and third respondent both encroached on road poramboke land. The third respondent had initiated the litigation by filing the earlier writ petition. His construction is stated to have been now removed. In case of petitioner, the encroachment has not been removed despite the notice having been sent in which the petitioner failed to participate. The encroachment is to the extent of 12.24 sq. meters and this is after measurement and demarcation at site.

2. In view of the aforesaid facts and circumstances, we see no reason to accept the request of the learned counsel for the

petitioner to once again carry out demarcation at site.

3.We find no infirmity in the impugned order.

Writ petition is, accordingly, dismissed. No costs. Consequently, W.M.P.Nos.36542 and 36543 of 2016 also stand dismissed."

(underlining made by us to supply emphasis)

7.This review application, is predicated on the pivotal point that there has been some error in measurement.

8.We put it to the learned counsel as to what exactly is the error according to him. Even, according to the review applicant, the difference and extent between the encroachment as set out in the impugned notice and according to him is only 4 sq.mtrs. Though this is no ground for review, but considering the above submission of the learned counsel for the petitioner, we are not delving any further into this aspect of the matter. No point for review has been made out.

9.There is no ground for review and the review application is dismissed. No costs. Consequently, W.M.P.No.20033 of 2017 also stands dismissed.

(I.B., C.J.) (M.S., J.)
06.10.2017

Index : Yes/No
Website : Yes/No

sra

To

- 1.The Deputy Director,
Town and Country Planning,
Villupuram District, Villupuram.
- 2.The Commissioner,
Kallakurichi Municipality,
Kallakurichi.



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The Hon'ble Chief Justice
and
M.Sundar, J.

(sra)



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