



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.09.2017

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P(MD)No.1006 of 2015

and

M.P(MD)No.1 of 2015

B.Annakodi

... Petitioner

Vs.

1. The District Collector
Madurai District.
2. The Tahsildar,
Usilampatti Taluk,
Madurai dist.
3. The Block Development Officer,
Usilampatti Panchayat Union,
Usilampatti,
Madurai District.
4. The Commissioner,
Usilampatti Panchayat Union,
Usilampatti,
Madurai District.
5. The President,
Thottappanayakkanoor Village Panchayat,
Usilampatti Taluk,
Madurai District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus to direct the respondents to remove the basement pillars for construction put up in front of the petitioner's land in Survey No.184/4, Thottappanayakkanoor Village, Usilampatti Taluk, for maintaining free access to her land from the road.

For Petitioner

: Mr.L.Shaji Chellan

For R1 to R5

: Mr.J.Gunaseelan Muthiah,
Government Advocate

**ORDER**

This writ petition has been filed, seeking a direction to the respondents to remove the basement pillars for construction put up in front of the petitioner's land in Survey No.184/4, Thottappanayakkanoor Village, Usilampatti Taluk, for maintaining free access to her land from the road.

2. Heard the learned counsel appearing on either side.

3. It is the case of the petitioner that she is the owner of the land in Survey No.184/4, Thottappanayakkanoor Village, Usilampatti Taluk to the extent of one acre and a huge water tank was constructed in the front of the area of her land with the help of the respondents. On 10.01.2015, basement pillars were hurriedly put up in front of her land so as to construct an Anganwadi Auditorium, even though there is an Anganwadi existing in the village and according to the petitioner the present construction is put up only to deprive her rights with an ill-motive to drive away from her property. It is the further case of the petitioner that in this regard, the petitioner preferred a complaint on 12.01.2015 to the respondents, upon which, the third respondent directed the respondents 4 and 5 to stop the construction for the time being. Under such circumstances, for further directions, the petitioner has come before this Court with the above said prayer.

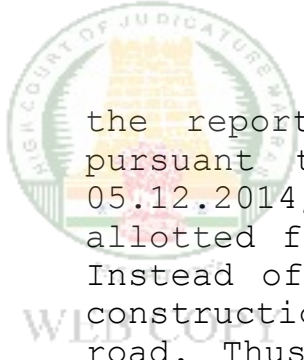
4. This Court, in order to give quietus to the issue, appointed an Advocate Commissioner to ascertain the factual position, who duly inspected the land in question and filed her report. On receipt of a copy of the said report, the petitioner has filed a reply to the Advocate Commissioner's report, wherein, in Clause (f) of Paragraph No.1, it has been stated as follows:

"(f) Administrative sanction for construction of Anganwadi was granted by the District Collector on 05.12.2014 in S.No.182/35 in Servaipatti Village, which is tharisu land in Thottappanayakanoor Panchyat. But instead of constructing Anganwadi in the sanctioned place, illegal construction was started in S.No.183, which is a road. Thus instead of constructing in the Tharisu land in Survey No.182/35, the construction was illegally started in road area adjoining my land."

5. At this juncture, the learned Government Advocate, on instructions, submitted that the proposed construction of Anganwadi Auditorium in the place in question itself was dropped. The said submission made by the learned Government Advocate is recorded.

<https://hcservices.ecourts.gov.in/hcservices/>

6. This Court finds that there is correlation between the averments made in the affidavit in support of the petitioner and



the report filed by the Advocate Commissioner and admittedly, pursuant to the proceedings of the District Collector, dated 05.12.2014, a land in S.No.182/35 in Servaipatti Village was allotted for the purpose of construction of Anganwadi Auditorium. Instead of constructing the same in the allotted place, the said construction was proceeded with in S.No.183, which is admittedly a road. Thus, this Court is of the view that no other conclusion than the one that the construction put up by the respondents is to be removed from S.No.183 forthwith, can be arrived at, as the same is situated in front of the petitioner's property.

7. Accordingly, this petition is disposed of with a direction to the respondents to take immediate steps to remove the unauthorized constructions put in front of the petitioner's property, within a period of six weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar

To:

1. The District Collector
Madurai District.
2. The Tahsildar,
Usilampatti Taluk, Madurai dist.
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Usilampatti, Madurai District.
5. The President,
Thottappanayakkanoor Village Panchayat,
Usilampatti Taluk, Madurai District.

+ 1 cc TO Mr.L.Shaji Chellan , Advocate in SR No. 80297
+1cc to The Special Government Pleader in SR.No.81059

rm

AE/SKN RSK/SAR3/11.10.2017/3P/8C

W.P (MD) No.1006 of 2015
21.09.2017