

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED: 31.07.2017

CORAM:

THE HONOURABLE MR. JUSTICE K.K. SASIDHARAN
and
THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

W.P. (MD) No. 11461 of 2014

K. Kalaimani

... Petitioner

Vs.

1. The District Collector,
Sivagangai District.

2. The Tahsildar,
Ilayangudi Taluk,
Sivagangai District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents herein to remove the encroachments made in Survey No. 185 situated in the Nadu Samuthiram Village, Ilayangudi Taluk, Sivagangai District.

For petitioner : Ms. Porkodi Karnan

For Respondents : Mr. T. S. Mohammed Mohideen
Additional Government Pleader

ORDER

[Order of the Court was made by **K.K. SASIDHARAN, J.**]

The petitioner filed this writ petition to direct the respondents to remove the encroachments made in Survey No. 185, situated at Nadu Samuthiram Village, Ilayangudi Taluk, Sivagangai District.

2. When the Writ Petition was taken up for hearing, the learned Additional Government Pleader by producing a copy of the order dated 17.02.2014 in W.P.(MD).No.2463 of 2014, submitted that the petitioner filed a Writ Petition earlier for the very same relief. The Division Bench dismissed the writ petition. However, without disclosing the factum of disposal of the writ petition, with the same prayer the petitioner once again filed this Writ Petition.



3. We have perused the earlier order in W.P(MD).No.2463 of 2014, dated 17.02.2014. It is found that the present writ petition is a verbatim re-production of the averments made in the affidavit filed in support of the earlier Writ Petition. The counsel, who appeared for the petitioner in the earlier round of litigation, is the very same counsel on record in this writ petition. Even if the party failed to inform the counsel about the institution of the writ petition earlier, still the counsel has a duty to the Court to state about the truth. However, for the reasons best known, the institution of the Writ Petition earlier has been suppressed in the present Writ Petition. We are therefore of the view that the petitioner is not entitled to any kind of equity.

4. While dismissing the Writ Petition filed by the petitioner, we direct him to pay a sum of Rs.5,000/- (Rupees Five Thousand only) as cost. The cost amount shall be paid to the Commissioner, Corporation of Madurai. The said amount shall be spent for the maintenance of the Night Shelter meant for Old Age people situated at Uttangudi. In case the petitioner failed to deposit the fine amount within a period of two weeks from today, we permit the District Collector to recover the said amount treating it as arrears of land revenue.

5. The Writ Petition is dismissed. No costs.

sd/-

Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar

To

1. The District Collector,
Sivagangai District.

2. The Tahsildar,
Ilayangudi Taluk,
Sivagangai District.

Copy to:

The Commissioner,
Madurai Corporation, Madurai.

+1cc to M/s.Polax Legal Solution, Advocate in SR.No.69282
+1cc to The Special Government Pleader in SR.No.69719

akv/sss

AE/KK/SAR1/29.08.2017/2P/6C