



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 17.08.2017

CORAM:

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

W.P. (MD) No.16625 of 2014

and

M.P. (MD) .Nos.1 of 2014 and 2 of 2015

and

W.M.P. (MD) .No.6211 of 2017

N.Bimal Chand Jain

: Petitioner

Vs.

1.The Commissioner,
Tiruchirapalli City Municipal Corporation,
Tiruchirapalli.

2.The Assistant Commissioner,
K.Abishekapuram Zone,
Tiruchirapalli Municipal Corporation,
Tiruchirapalli.

3.The Junior Engineer,
K.Abishekapuram Zone,
Tiruchirapalli Municipal Corporation,
Tiruchirapalli.

4.Town Surveyor,
K.Abishekapuram Zone,
Tiruchirapalli Municipal Corporation,
Tiruchirapalli.

5.V.C.Sundararajan

: Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records relating to the impugned order in Na.Ka.No.3490/11/F.1 dated 23.09.2014 issued by the second respondent and quash the same.

For Petitioner

: Mr.P.Thiagarajan

For R.1 to R.4

: Mr.N.S.Karthikeyan

For Respondent No.5

: Mr.B.Prasannavinot

O R D E R

[Order of the Court was made by **G.R.SWAMINATHAN, J.**]

The writ petitioner and the fifth respondent herein have been at logger heads with each other. The fifth respondent had earlier filed W.P.(MD).No.1647 of 2011 for removal of the encroachments in the water body in question. Following the direction issued by this Court, such exercise was undertaken. It was noticed that the writ petitioner had committed encroachment and by the impugned order dated 23.09.2014, the writ petitioner was called upon to remove the encroachment. Questioning the same, the present writ petition has been filed.

2. According to the writ petitioner, he was not put on notice before passing the impugned order. On this ground of the violation of principles of natural justice, the order dated 23.09.2014 issued by the second respondent herein is quashed. The matter is remitted to the file of the second respondent for fresh consideration. The second respondent shall survey the property in question after issuing notice to the petitioner as well as the fifth respondent. In case, it is found that the writ petitioner is in occupation of the land owned by the Corporation, the same should be indicated in this sketch and thereafter immediately the encroachment would be removed. Since the matter is already a subject matter of prior litigation, the respondents 1 to 3 are directed to remove the encroachment, if any, immediately after conducting survey. Such exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order.

3. This Writ Petition is allowed as indicated above. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-I)

/True copy/

Sub Assistant Registrar

To

1. The Commissioner,
Tiruchirapalli City Municipal Corporation,
Tiruchirapalli.

2. The Assistant Commissioner,
K.Abishekapuram Zone,
Tiruchirapalli Municipal Corporation,



3.The Junior Engineer,
K.Abishekapuram Zone,
Tiruchirapalli Municipal Corporation,
Tiruchirapalli.

4.Town Surveyor,
K.Abishekapuram Zone,
Tiruchirapalli Municipal Corporation,
Tiruchirapalli.

+1cc to Mr.P.THAGARAJAN, Advocate, SR.72847

+1cc to Mr.B.PRASANNA VINOTH, Advocate, SR. 73132

+1cc to Mr.N.S.KARTHIKEYAN, Advocate, SR.72991

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KK/SV MMS/SAR 3/13.12.2017/ 3P- 8C/