

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****Dated : 01.09.2017****CORAM :****THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN****W.P (MD) No.22696 of 2015
and
M.P. (MD) No.2 of 2015**

1.M.Selva Kumar
2.M.Ranjith Kumar ... Petitioners

Vs.

1. The Commissioner,
Gudalur Municipality,
Gudalur,
Uthamapalayam Taluk,
Theni District - 625 516.

2.S.Sivaji ... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, by calling for the records of the first respondent notice in Na.Ka.No.2404/2015/F1 dated 09.12.2015 and quash the same and forbearing the first respondents from removing the staircase put up by the petitioner in old ward No.8, New ward No.11 bearing Door No.83 at Idaiyar Street, Mela Gudalur Village, Uthamapalayam Taluk, Theni District.

For Petitioner : Mr.S.Kadarkarai

For Respondents : Mr.T.S.Md. Mohideen, AGP for R1
Mr.R.Suriyanarayanan for R2

O R D E R

(Order of the Court was made by G.R.SWAMINATHAN, J.)

The writ petitioner challenges the communication dated 09.12.2015 issued by the Commissioner, Gudalur Municipality, calling upon the writ petitioner to remove staircase put up by him in the pavement. The writ petitioner would place reliance on the decree said to have been obtained by him in O.S.No.177 of 2014 on

the file of the District Munsif Court, Uthamapalayam.

2.This Court perused the copy of the judgment and decree made in the said suit. It is seen that the writ petitioner has made the Gudalur Municipality alone as a defendant in the said suit. The Government has not been made as a party to the said suit proceedings. It is an exparte decree. It is admitted by the writ petitioner that an application for setting aside the same has since been filed.

3.If according to the petitioner, the impugned notice is in violation of the said judgment and decree, it is for him to move the Court concerned. He cannot invoke the jurisdiction of this Court under Article 226 of the Constitution of India. The writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar(CS-I)

/True copy/

Sub Assistant Registrar

To

The Commissioner,
Gudalur Municipality,
Gudalur,
Uthamapalayam Taluk,
Theni District - 625 516.

+1 cc to Mr.R.Suriyanarayanan , Advocate in SR.No. 76520

+1 cc to Mr.S.Kadarkarai , Advocate in SR.No. 76331

Arul/Skm

AE/KP/SAR2/26.09.2017/2P/4C

W.P(MD)No.22696 of 2015

and

M.P. (MD) No.2 of 2015

01.09.2017