



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.09.2017

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

and

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)Nos.10604 and 13905 of 2017

and

W.M.P(MD)Nos.8090, 9915, 10841 and 10842 of 2017

W.P. (MD)No.10604 of 2017:

S.Samyappan

... Petitioner

Vs.

1.The District Collector,
Madurai District, Madurai.

2.The Tahsildar,
Thirupparankundram Taluk,
Madurai District.

3.The Commissioner,
Corporation of Madurai,
Arignar Anna Maligai,
Division No.4,
Madurai-625 002.

4.Selvam

5.Balakrishnan

6.Marimuthu

7.Marikannan

8.M.Somasundaram

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the entire records relating to the impugned final notice issued by the third respondent herein in Na.KanNo.Ma.4/A4 06728/2017, dated 22.05.2017 and the same was sent through registered post on 31.05.2017 and served to the petitioner on 01.06.2017 and quash the same the consequently direct the respondents 1 to 3 herein to take appropriate steps for removal of the actual encroachment made by the respondents 4 to 7 herein in respect of the Public road comprising T.S.No.117, Ward No.75, South Street, Palanganatham, Madurai Town.



For Respondents 1 to 3

: Mr.T.S.Md.Mohideen

Additional Government Pleader

For Respondents 4 to 7

: Mr.R.R.Kannan

W.P. (MD) No.13905 of 2017:

S.Samyappan

... Petitioner

Vs.

1.The District Collector,
Madurai District, Madurai.

2.The Tahsildar,
Thirupparankundram Taluk,
Madurai District.

3.The Commissioner,
Corporation of Madurai,
Arignar Anna Maligai,
Division No.4,
Madurai-625 002.

4.The Town Planning Officer,
Madurai City,
Corporation of Madurai,
Arignar Anna Maligai,
Division No.4,
Madurai-625 002.

5.The Assistant Director of Survey,
Madurai Collectorate,
Madurai-20.

6.The Town Surveyor,
Corporation of Madurai,
Arignar Anna Maligai,
Division No.4,
Madurai -625 002.

7.The Executive Engineer (Planning),
Corporation of Madurai,
Arignar Anna Maligai,
Division No.4,
Madurai -625 002.

8.The Deputy Taluk Inspector of Survey,
Thirupparankundram Taluk,
Madurai District.

<https://hcservices.madurai.gov.in/Services/>

9.Selvam



10.Balakrishnan
11.Marimuthu
12.Marikannan
13.M.Somasundaram

... Respondents

WEB COPY

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the entire records relating to the impugned Town Survey Sketch relating to Town Survey Nos.113, 117, 122, Ward No.XII, Block Nos.46 and 39, corporation Ward No.75, Madakulam Village, Thiruparankundram Taluk, Madurai City, prepared and issued by the respondents 5 to 8 and quash the same and consequently direct the respondents 1 to 8 to carry out appropriate survey and to issue a fresh Town Survey Sketch relating to Town Survey Nos.113, 117 and 122, Ward No.XII, Block Nos.46 and 39, corporation ward No.75, Madakulam Village, Thiruparankundram Taluk, Madurai City.

For Petitioner : Mr.A.Saravanan

For Respondents 1 to 8 : Mr.T.S.Md.Mohideen

Additional Government Pleader

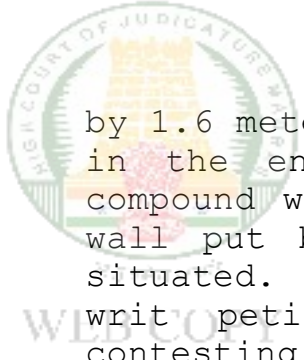
For Respondents 9 to 12 : Mr.R.R.Kannan

C O M M O N O R D E R

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

The writ petitioner herein challenges the order dated 22.05.2017 issued by the Commissioner of Madurai Corporation. The Third respondent had called upon the writ petitioner to remove the encroachment in question. In W.P.(MD)No.13905 of 2017, the writ petitioner wanted to question the Town Survey Sketch relating to town Survey Nos.113, 117 and 122, Ward No.XII, Block Nos.46 and 39, Corporation Ward No.75, Madakulam Village and sought direction to carry out appropriate survey and issue fresh Town Survey Sketch.

2.Since it appeared that during earlier survey the writ petitioner was not put on notice, this court directed the authorities to conduct a fresh survey. Accordingly land survey notice was issued to the writ petitioner by the Tahsildar, Thirupparankundram Taluk, Madurai District on 31.08.2017 and on 02.09.2017 the property in question, viz., T.S.No.113 and 117 Madakulam Village was measured in the presence of the writ petitioner and the contesting respondents by the concerned officials. T.S.No.117 has been categorised as street. It was found that the writ petitioner has encroached on the eastern side



by 1.6 meters and 7.7 meters on the southern side. In T.S No.117, in the encroached portion, the writ petitioner had put up a compound wall. The fact that emerges is that inside the compound wall put by the writ petitioner, an electricity Pole is also situated. From this, the act of the encroachment committed by the writ petitioner is clearly evident. The occupation of the contesting respondent is in terms of the revenue records. The Tahsildar, Thirupparankundram Taluk submitted a report dated 01.09.2017 to that effect. The seventh respondent also filed a detailed counter affidavit.

3.It appears that the writ petitioner has filed a civil suit. Such a suit is clearly not maintainable. The authorities have conducted survey for the second time. Due notice and opportunity was given to the writ petitioner. It is the duty of the authorities to maintain public streets free of encroachment. Appropriate action will have to be taken for removal of the encroachment committed by the writ petitioner. Of course, the authorities will follow due process of law. There is a absolutely no merit in this Writ petition. When the authorities have followed statutory procedure, the question of directing them to prepare a fresh Town Survey Sketch does not arise.

4.Both the writ petitions stand dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

/True Copy/

Sub Assistant Registrar

To:

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- 2.The Tahsildar,
Thirupparankundram Taluk, Madurai District.
- 3.The Commissioner,
Corporation of Madurai, Arignar Anna Maligai,
Division No.4, Madurai-625 002.
- 4.The Town Planning Officer,
Madurai City, Corporation of Madurai,
Arignar Anna Maligai, Division No.4, Madurai-625 002.
- 5.The Assistant Director of Survey,
Madurai Collectorate,



6.The Town Surveyor,
Corporation of Madurai,
Arignar Anna Maligai,
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7.The Executive Engineer (Planning),
Corporation of Madurai,
Arignar Anna Maligai,
Division No.4,
Madurai -625 002.

8.The Deputy Taluk Inspector of Survey,
Thirupparankundram Taluk,
Madurai District.

+4cc to M/S.A.SARAVANAN, Advocate SR.Nos.78863&78864
+2cc to M/S.T.S.MOHAMED MOHIDEEN, Advocate SR.Nos.79211&79213
+2cc to M/S.RR.KANNAN, Advocate SR.Nos.78747&78746

vsg/rmi
MAS/JC/SAR2:09.10.2017:5P-17C

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