



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 07.08.2017

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

and

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD) No. 13107 of 2017

and

WMP. (MD) No. 10171 of 2017

Gururaj

.. Petitioner

Vs.

1.The District Collector,
Trichy District, Trichy.

2.The Revenue Divisional Officer,
Trichy, Trichy District.

3.The Thasildar,
Thiruverumbur Taluk,
Trichy District.

4.The Block development Officer,
Thiruverumbur Panchayat Union,
Trichy District.

5.Mohammed Yunus

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents 1 to 4 to remove the encroachment made by the 5th respondent in S.F.No.130/2A1, 130/2A42 and 130/2A44 of Gundur Village, Gandhi Nagar, Thiruverumbur Panchayat Union, Trichy District.

For Petitioner : Mr.M.Suresh

For Respondents No.1 to 4 : Mr.T.S.Mohammed Mohideen
Additional Government Pleader

For Respondents No.5 : Mr.M.Palani

O R D E R

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

The writ petitioner seeks removal of the encroachments made in S.F.No.130/2A1, 130/2A42 and 130/2A44 of Gundur Village, Gandhi Nagar, Thiruverumbur Panchayat Union, Trichy District.

2. According to the writ petitioner, in an approved layout, land portions earmarked as childrens' play space (C.P.S), Park etc., un-approved constructions have been made. He submitted a representation dated 30.05.2017 in this regard. Since no action was



taken, the present writ petition has been filed.

3. The alleged encroacher namely the fifth respondent herein contended that the writ petitioner has come up with this writ petition projecting the same as public interest litigation. He also questioned the *locus standi* of the writ petitioner to file such writ petition. Photographs were produced, from which it could be seen that a prayer halls and an arch have been put up. The arch is constructed for entrance of the Gandhi Nagar touching the Vinayagar temple and thus, according to the learned counsel for the writ petitioner, no public property has been encroached.

4. The learned counsel for the fifth respondent would also contend that the local residents have not opposed such user of the property in question. In fact, they have given consent for the same. According to the fifth respondent, the writ petitioner is a outsider and therefore the writ petition has to be dismissed.

5. We are of the view that when the layout has been approved and certain sites have been earmarked as park or playground or children's play area or road, the purpose for which the said sites were earmarked should be effectuated. It is not open to the promoters to alienate such earmarked places for public purpose. If the site has been earmarked as childrens' play area, it has to be maintained as such. Otherwise there is no purpose in granting layout approval with conditions.

6. We therefore, direct the third respondent to conduct survey and if it is seen that encroachments have been committed in violation of the layout approval, the third respondent shall cause the removal of the said encroachment, after issuing notice to the affected parties and after following the procedure lay down in the relevant statute. The third respondent shall complete the entire exercise within a period of three months from the date of receipt of a copy of this order.

7. Accordingly, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

/True Copy/

Sub Assistant Registrar

To:

1. The District Collector,
Trichy District, Trichy.

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

2. The Revenue Divisional Officer,
Trichy, Trichy District.



3.The Thasildar,
Thiruverumbur Taluk,
Trichy District.

4.The Block development Officer,
Thiruverumbur Panchayat Union,
Trichy District.

+1cc to THE SPECIAL GOVERNMENT PLEADER in SR. NO.71640
+1cc to Mr.M.PALANI Advocate in SR. No.71604
+1cc to Mr.M.SURESH Advocate in SR. No.71028

RMK/DAS

JS/MR.KKR/SAR.1/23.08.2017/3P-8C

ORDER MADE IN

W.P. (MD) No. 13107 of 2017
and
WMP. (MD) No.10171 of 2017
07.08.2017