



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 11.09.2017

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
W.P.[MD].No.16969 of 2017

M.Masanam : Petitioner
Vs.

1.The District Collector,
Tirunelveli District,
Tirunelveli.

2.The Commissioner,
Sankarankovil Municipality,
Sankarankovil,
Tirunelveli District.

3.Mr.S.Vivekanandan : Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondent Nos.1 and 2 to lay Thar Road for the remaining area of 500 metres in New Town Survey No.1/1 (Old Town Survey No.256/1 and 3), Ward No.2, Block 18, Bharathiyar Eighth Street, Sankarankovil, connecting Ilavangulam Main Road and Tiruvengadam Road, within a stipulated time that may be fixed by this Court, by considering the representation dated 25.02.2017, in the light of the second respondent office Resolution No.385, dated 20.12.2012.

For Petitioner : Mr.R.Karunanidhi

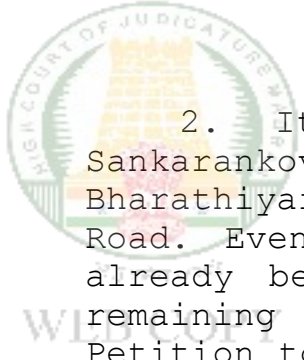
For Respondent No.1 : Mr.M.Govindan,
Special Government Pleader

For Respondent No.2 : Mr.P.Mahendran

O R D E R

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

The petitioner filed this Writ Petition for issuance of a Writ of Mandamus, directing the respondents 1 and 2 to lay Thar road for the remaining area of 500 metres in New Town Survey No.1/1, corresponding to Old Town Survey No.256/1 and 3, Ward No.2, Block 18, Bharathiyar Eighth Street, Sankarankovil, connecting Ilavangulam Main Road and Tiruvengadam Road, within a stipulated



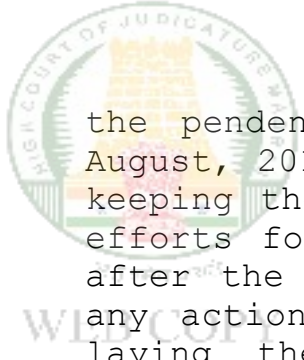
2. It is the grievance of the petitioner that the Sankarankovil Municipality resolved to lay a road connecting Bharathiyar 8th Street and Ilavangulam Main Road and Tiruvengadam Road. Even though laying of a major portion of the road has already been completed, there was no progress with respect to remaining 500 metres. The petitioner, therefore, filed the Writ Petition to direct the respondents 1 and 2 to complete the process of forming the road as expeditiously as possible.

3. The Commissioner, Sankarankovil Municipality, in his counter-affidavit, submitted that Thiru.S.Vivekanandan filed a Civil Suit in O.S.No.22 of 2013 seeking declaration and permanent injunction. Since the suit was pending, further action could not be taken for completing the road work. According to the Commissioner, the suit was dismissed for default, by Judgment and decree dated 09 August, 2016. The decree has become final. The Commissioner in paragraph No.5 of the counter-affidavit, agreed to complete the process of laying the remaining portion of the road connecting Ilavangulam Main Road and Tiruvengadam Road, within a period of two months. Paragraph No.5 of the counter-affidavit would read thus:

"5. It is further submitted that after filing the above said writ petition, we have made physical verification of the actual remaining area left for laying the Tar Road in New T.S.No.1/1 (Old T.S.No.256/1 and 3), Ward No.2, Block No.18, Bharathiyar 8th Street, Sankarankovil connecting Ilavankulam Main Road and Tiruvengadam Road (which is a public street). Thereafter, it is found that in an area of 85 Metres, the Tar road has to be laid by this municipality. The width of the said Road is 4 metres. For completing the said balance work, as per the estimate prepared by this respondent municipality the amount comes to Rs.3.40 Lakhs and it was further decided that the said work would be completed from the amount lying with the municipality from the General Fund more fully since the public interest is involved. We are now taking further steps to complete the balance work as stated above by following the due process more fully by calling tenders and the work would be completed within a period of two months. Further the process for laying of the Tar road in the remaining area, as stated above forthwith by this respondent municipality."

4. The Local Body has already laid major portion of the road. The remaining area is only 85 metres.

5. The road is formed for the welfare of the people of the area in question. There is no point in keeping a road with 90% of the work completed without completing the remaining 10%. The Local Body expressed its difficulty to complete the work on account of



the pendency of the suit. The suit itself was dismissed on 09 August, 2016. We do not approve the conduct of the Commissioner in keeping the matter pending even thereafter without taking earnest efforts for completing the work. Even though one year has lapsed after the dismissal of the suit, the Commissioner has not taken any action for resuming the work and completing the process of laying the road. Now that the Commissioner has agreed for completing the entire work within a period of eight weeks, we do not propose to make any observation in the matter.

6. We direct the Commissioner, Sankarankovil Municipality, to complete the process of laying the road with respect to the remaining area, connecting Ilavangulam Main Road and Tiruvengadam Road, within a period of two months from today. The Commissioner must ensure that the remaining work is completed within the outer time limit of two months from today. In case the same is still delayed, the Commissioner would be personally liable for the extra costs incurred by the Local Body by way of escalation cost.

7. The Writ Petition is disposed of with the above direction. No costs.

Sd/-

Assistant Registrar(Records)

/True copy/

Sub Assistant Registrar

To

1.The District Collector,
Tirunelveli District,
Tirunelveli.

2.The Commissioner,
Sankarankoil Municipality,
Sankarankoil,
Tirunelveli District.

+1cc to Mr.P.MAHENDRAN,Advocate,SR.77892

+1cc to Mr.R.KARUNANIDHI,Advocate,SR.77864

W.P.[MD].No.16969 of 2017
11.09.2017

SML/RMK

KK/RSK/SAR2/12.09.2017/ 3P-5C