



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.10.2017

CORAM:

THE HONOURABLE MR.JUSTICE M.VENUGOPAL

AND

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.(MD)No.10010 of 2016

and

W.M.P(MD)No.7877 of 2016

C.Kadiresan

: Petitioner

.vs.

1.The District Collector,
Office of the District Collector,
Madurai.

2.The Madurai Corporation,
Represented by its
Commissioner, Anna Maligai,
Thallakulam, Madurai.

3.The Tahsildar,
Madurai West Taluk,
Madurai.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying this Court for issuance of a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned proceedings issued by the 2nd respondent vide reference No.Mathil/7288/16 dated 13.04.2016 and quash the same and consequently directing the respondents 1 to 3 to take immediate steps to remove the illegal encroachments made by the encroachers at Tamil Sangam Road, Service road situated under the Madurai Coats Bridge (northern side) from Madurai Labour Welfare Association School to Gain Tailor Shop, Madurai Corporation, Madurai.

For Petitioner

:Mr.P.Mahendran for
M/s.B.Arun

For R-1 & R-3

:Mr.M.Govindan,
Special Government Pleader

For R-2

:Mr.R.Murali



O R D E R

[Order of the Court was made by M.VENUGOPAL, J.]

The Petitioner has preferred the present Writ Petition praying for passing of an order by this Court in calling for the records pertaining to the impugned proceedings issued by the 2nd Respondent vide reference No.Mathil/7288/16 dated 13.04.2016 and quash the same and consequently directing the Respondents 1 to 3 to take immediate steps to remove the illegal encroachments made by the encroachers at Tamil Sangam Road, Service road situated beneath the Madurai Coats Bridge (Northern side) from Madurai Labour Welfare Association School to Gain Tailor Shop, Madurai Corporation, Madurai.

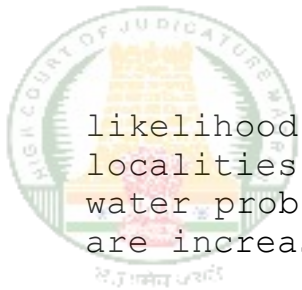
2. Heard both sides.

3. According to the Petitioner, beneath the Tamil Sangam Road, there is a Bridge called Madurai Coats Bridge more fully situated through the road passing from Madurai to Theni. Also that, the Ward Nos.11 and 80 comes under the Tamil Sangam Road area. Apart from that, there is a service road leading from Madurai Labour Welfare School to Gain Tailor Shop. There are two service roads, more fully towards Northern Side and Southern Side passing over the said Madurai Coats Bridge. Further, towards the Northern Side service road, there are some pillars existing.

4. The stand of the Petitioner is that since none of the Government Officials are having any interest to maintain the area covered under the afore stated Madurai Coats Bridge, more fully on the Northern Side service road, the number of encroachers encroaching upon the Government property has been increasing day-by-day and these encroachments are causing serious obstructions for the free movement of the passengers and public.

5. It is brought to the notice of this Court on behalf of the Petitioner that in the afore stated service road, the illegal encroachers upon encroaching the same are using the same for all illegal purposes, more fully for passing urination, for consumption of alcohol and other bad vices due to which it has become very difficult for the public, more fully for children, ladies and old age persons to move through the said area.

6. The Learned Counsel for the Petitioner points out that the encroachers have put up so many buffalos, cows in the said area and causing severe obstruction for free movement of water and drainage water through the said portions. Even there is danger for the pillars existing in the said area as these encroachers may ~~services to courts and judges~~ slowly to have their own rights over the property by fabricated methods. Because of the illegal encroachments and not keeping the premises in hygienic fashion, there is every



likelihood of cropping up of diseases in the neighbourhood localities causing severe health hazards besides contamination of water problems. These encroachments, according to the Petitioner are increasing day-by-day.

7. The Learned Counsel for the Petitioner adds that the Petitioner gave a representation signed by him and by other residents to the First Respondent/District Collector, Madurai, the Second Respondent/Commissioner of Madurai Corporation, Madurai and the Third Respondent/Tahsildar, Madurai West Taluk, Madurai, on 25.01.2016 through registered post with Acknowledgment Card explaining all the illegal and fraudulent acts of the encroachers, which resulted in severe hardship and mental agony to all and requested to take necessary action. But, the Third Respondent/Tahsildar, Madurai West Taluk, Madurai, has intimated the Petitioner through letter dated 23.02.2016 stating that the said area comes under the Tahsildar West Taluk only and therefore, the Petitioner should approach the said person. In the meanwhile, the Second Respondent through proceedings dated 13.04.2016 had stated that there was some encroachments, but they were removed and the said road has been put into public use as usual. But, the Petitioner disputes the reply furnished by the Second Respondent stating that it is incorrect and a wrong one. Hence, the Petitioner has filed the present Writ Petition challenging the proceedings of the Second Respondent dated 13.04.2016.

8. On a careful consideration of the contentions advanced on behalf of the Petitioner and also this Court upon hearing the Learned Counsel for the Second Respondent/Commissioner of Madurai Corporation, Madurai, is of the considered view that even though the Second Respondent/Corporation[Executive Engineer(Scheme)], had given a reply dated 13.04.2016 to the Petitioner stating that the encroachments under the Eastern Side of Madurai Coats Bridge were removed and the same was brought for public use, this Court taking note of the fact that the contents of the Second Respondent's communication dated 13.04.2016 are disputed by the Petitioner, at this stage, without going into the merits and contents of the subject matter in issue, simpliciter, directs the Second Respondent to remove the encroachments as averred by the Petitioner in his representation dated 25.01.2016 and to take action every now and then, in regard to the removal of encroachments in question. If the encroachers occupy or use the space under the Bridge in question, the Second Respondent shall take an effective, efficacious and diligent steps in removing them and to bring space/area for use of the general public so as to enable them to have an access for the area in question without any difficulty. The exercise of removal of encroachment shall be carried out by the Second Respondent, within a period of four months from the date of receipt of a copy of this order.



8. With the above said observation(s) and direction(s), the Writ Petition stands disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

WEB COPY

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

1. The District Collector,
Office of the District Collector,
Madurai.
2. The Madurai Corporation,
Represented by its
Commissioner, Anna Maligai,
Thallakulam, Madurai.
3. The Tahsildar,
Madurai West Taluk,
Madurai.

+1cc to Special Government Pleader, SR.No. 83854
+1cc to M/S.B.Arun, Advocate SR.No. 83489
+1cc to M/S.R.Murali, Advocate SR.No. 83473

ORDER MADE IN
W.P.(MD)No.10010 of 2016
and
W.M.P(MD)No.7877 of 2016
24.10.2017

pm
JM/RSK/SAR 1/01.11.2017/4P/7C