



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:27.11.2017

CORAM:

THE HONOURABLE MR.JUSTICE M.VENUGOPAL
AND
THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.(MD)No.20517 of 2017

and

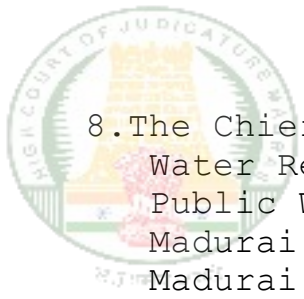
W.M.P(MD)Nos.16802 and 16965 of 2017

M.Subash Babu

: Petitioner

.vs.

- 1.The Principal Secretary to Government,
Public Works Department,
Secretariat,
St. George Fort,
Chennai.
- 2.The Secretary to Government,
Municipal Administration and Water Supply,
Secretariat,
St. George Fort,
Chennai.
- 3.The Principal Chief Engineer,
Water Resource and Chief Engineer, (General),
Public Works Department,
Chepauk,
Chennai.
- 4.The District Collector,
Madurai District.
- 5.The Commissioner,
Madurai Corporation,
Thallakulam,
Madurai.
- 6.The Commissioner of Police,
Madurai City,
Madurai.
- 7.The Superintendent of Police,
Sivakasi,
Madurai.



8.The Chief Engineer,
Water Resource Organization,
Public Works Department,
Madurai Division,
Madurai -2.

9.The Executive Engineer,
Public Works Department,
Water Resource Organization,
Periyar Vaigai Basin Division,
Madurai - 2.

10.The Assistant Executive Engineer,
Public Works Department,
Water Resource Organization,
Periyar Vaigai Basin Division,
Madurai -2.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying this Court for issuance of a Writ of Mandamus directing the 5th Respondent to implement the recommendation letter of the 4th Respondent dated 15.07.2015 in Na.Ka.No.1254/2015/A.Mu.2 and consequently direct the Respondents 1 and 2 to look into the recommendation letter dated 15.07.2015 as per this Honourable High Court's order in W.P(MD)No.14545 of 2015 dated 11.09.2015.

For Petitioner	: Mr.M.Subash Babu(Party-in-Person)
For R-1 to R-4 & R-6 to R-10	: Mr.M.Govindan, Special Government Pleader
For R-5	: Mr.R.Murali

O R D E R

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

The Petitioner has preferred the instant Writ Petition praying for passing of an order by this Court in directing the 5th Respondent to implement the recommendation letter of the 4th Respondent dated 15.07.2015 in Na.Ka.No.1254/2015/A.Mu.2 and to direct Respondent Nos.1 and 2, to look into the recommendation letter dated 15.07.2015 as per the order of this Court in W.P(MD)No.14545 of 2015 dated 11.09.2015.

2.Heard both sides. No counter-affidavit is filed on behalf of the Respondents.

3.By consent, the main Writ Petition itself is taken up for final disposal.

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4. According to the Petitioner, he is a practising Advocate of this Court having 25 years of practice in his profession and was



elected twice as President of Madurai Bench of Madras High Court Association. Further, he was twice elected as President of Madurai Bench of Madras High Court Bar Association. He has filed the present Writ Petition under the caption 'Public Interest Litigation'.

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5. The stand of the Petitioner is that in his area, there is a road, which connects 'Moondrumavadi' and 'Iyer Bungalow' and that is an important road to access the said 'Iyer Bungalow' and to connect the road to Dindigul viz., Natham. Each and every day, numerous persons used the said road for their regular works and more than one thousand vehicles viz., Two-wheelers, Four-wheelers, Mini-buses, Ambulances, School and College Buses are plying in between 'Moondrumavadi' and 'Iyer Bungalow'. Furthermore, since so many Colonies are created in that area, the Corporation limit is also extended upto 'Iyer Bungalow'.

6. According to the Petitioner, this is the shortest route from 'Moondrumavadi' to 'Iyer Bungalow' and that apart, there is a Multi-Speciality Hospital viz., Ashwini Hospital and a Bus Complex, EBG School and Phoenix School are also situated in that road and there are small shops situated on the right and left side of 'Moondrumavadi' to 'Iyer Bungalow' road. The afore stated road is the prime road for transportation of all sorts of people. However, the same has not been maintained in a proper manner by the Respondents and therefore, it has to be widened.

7. Continuing further, it is the case of the Petitioner that each and every day, due to heavy traffic, several accidents had taken place in the afore stated road and the vehicles are standing in queue and the School and College students could not reach the destination in time, because of the encroachments on the right side of 'Moondrumavadi' to 'Iyer Bungalow' road. There is a water channel belongs to Public Works Department and the encroachers had constructed huts in the 'Moondrumavadi' to 'Iyer Bungalow' road and the residents of the huts dumped wastages in the road and closed the Public Works Department Channel. Therefore, the said road has become a narrow one from its real position and as such, the people are suffering a lot. Also that, free flow of traffic is much affected in the afore stated road and heavy traffic arises during the peak hours and the people are the sufferers because of the encroachment made by the encroachers.

8. The Petitioner brings it to the notice of this Court that on earlier occasion, he filed W.P(MD)No.15204 of 2012 and this Court on 19.12.2012 had directed the Executive Engineer, Assistant Executive Engineer and Tahsildar to take immediate steps to evict the encroachers, after serving notice and after affording opportunity to them, as per the provisions of the Tamil Nadu Encroachment and Eviction of Encroachment Act, 2007, within a period of five months from the date of receipt of a copy of the order viz., before 21.06.2013.



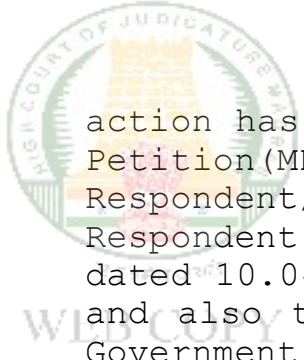
9. The grievance of the Petitioner is that the concerned Officials have not adhered to the order of this Court in W.P(MD) No.15204 of 2012 dated 19.12.2012. As such, he filed a Contempt Petition(MD)No.766 of 2013 and only thereafter, the Officials had removed the encroachments on 19.08.2013.

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10. The petitioner proceeds to point out that after demolition, on the road, cut down trees and garbage were found and that, the earlier Writ Petition was filed only for free flow of traffic between 'Iyer Bungalow' and 'Moondrumavadi' road. In fact, the encroachment was removed, but, even then, the Fifth Respondent/Madurai Corporation had not removed the garbage and cut down trees from the road and laid the road. In fact, they had not taken any steps to lay the road. Till now, the accident continues and due to heavy traffic, the vehicles are standing in the queue. As a matter of fact, the School and College students are not able to reach their destination and 15 years old student had died in an accident occurred in the said place. In reality, the Fifth Respondent/Madurai Corporation had not taken any steps to widen the road or to lay a new road even after the encroachment was removed.

11. The further case of the Petitioner is that a water Channel runs in the middle of the road and therefore, the Public Works Department Engineers are also responsible persons and necessary parties to state about laying of road in the present Writ Petition. Accordingly, the Petitioner impleaded Respondent Nos.8 to 10 in the present Writ Petition. He also sent a detailed representation before the Fourth Respondent/District Collector, Madurai on 26.08.2013. Again, on 19.09.2013, he made another representation to the Fifth Respondent/Madurai Corporation and one another representation to the Executive Engineer of Public Works Department (9th Respondent) and the Ninth Respondent had issued a reply mentioning that road laying work has to be done by the Fifth Respondent/Madurai Corporation, since it comes under the Corporation limits.

12. It transpires that the Petitioner filed W.P(MD)No.18249 of 2013 praying for passing of an order by this Court in directing the Fifth Respondent to consider his representation dated 19.09.2013 and this Court was pleased to pass orders on 12.11.2013 and to direct the Fifth Respondent to consider the Representation dated 19.09.2013 and to take appropriate action as early as possible. After receipt of the order copy passed in the Writ Petition, the Fifth Respondent/Madurai Corporation had not considered the order passed by this Court in W.P(MD)No.18249 of 2013, dated 12.11.2013. Since the order of this Court in W.P(MD)No.18249 of 2013, dated 12.11.2013 was not complied with, the Petitioner sent a contempt notice on 20.01.2014, which was received by the Fifth Respondent/Commissioner of Madurai Corporation. However, no

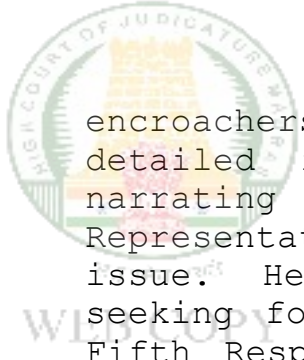


action has been taken. Therefore, the Petitioner filed a Contempt Petition (MD) No. 202 of 2014 against the Fifth Respondent/Commissioner of Madurai Corporation and that, the Fifth Respondent personally appeared and filed an undertaking letter dated 10.04.2014 stating that detailed Project Report was prepared and also that steps are taken by the Madurai Corporation to get Government Approval and Finance. Subsequently, the Petitioner made a representation before the First Respondent/Principal Secretary, Public Works Department, Chennai. Since Public Works Department's Channel is on the road, there is a proposal for extension of road from 'Moondrumavadi' to 'Iyer Bungalow Uchaparamedu'. On receipt of Petitioner's representation, the First Respondent/Principal Secretary of Public Works Department, Chennai, furnished a reply dated 15.09.2014 to the Principal Chief Engineer, Water Resource and Chief Engineer (General), Public Works Department, Chennai, raising queries and the same was sent back to Respondent Nos. 5 to 8. But, Respondent Nos. 5 to 8 had not taken any action. Therefore, the Petitioner addressed a representation to the Fifth Respondent on 22.06.2015 praying for early action being taken and for compliance of the undertaking furnished before the High Court. When Contempt Proceedings were taken against the Fifth Respondent/Commissioner, Madurai Corporation, an undertaking was given by the Commissioner of the Madurai Corporation.

13. Inasmuch there was no progress on Petitioner's Representation dated 22.06.2015, the Petitioner once again filed W.P (MD) No. 14545 of 2015 and at the time of hearing, the Fourth Respondent/District Collector, Madurai submitted his recommendation letter dated 15.07.2015 through the Learned Government Pleader. Based on the submission made by the Learned Government Pleader as well as the recommendation letter dated 15.07.2015 of the District Collector, Madurai District, this Court directed the Fifth Respondent/Commissioner, Madurai Corporation to pursue the proposal for widening the road from 'Moondrumavadi' to 'Park Town' in the light of the recommendation of the Fourth Respondent/District Collector, Madurai and the Fourth Respondent/District Collector, Madurai in the communication, dated 15.07.2015, had stated that comprehensive proposal has been submitted to the Government for its financial sanction. In fact, this Court had directed the First and Second respondents to look into the proposal at the earliest etc. Subsequently, the Fifth Respondent/Commissioner, Madurai Corporation had laid a 'Laterite Soil Road', but they had not diverted the passerby to use the said road. Within few months, again, the said road was encroached by the encroachers. That apart, during rainy season, the 'Laterite Soil Road' become sludge and mire and therefore, the regular passerby are not in a position to use the road. Now, the 'Laterite Soil Road' is in worse condition.

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14. The Petitioner takes a plea that inasmuch as Respondent Nos. 6 and 7 had failed to divert the passerby, again, the



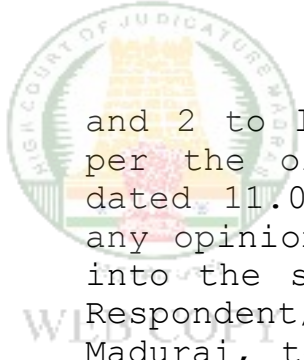
encroachers had encroached the road. The Petitioner had sent a detailed representation before the Respondents on 27.01.2017 narrating all the afore stated facts. Even after receipt of his Representation, there is no progress in the subject matter in issue. Hence, the Petitioner has filed the present Writ Petition seeking for passing of an order by this Court in directing the Fifth Respondent/Commissioner, Madurai Corporation, to implement the recommendation letter of the Fourth Respondent/District Collector, Madurai, dated 15.07.2015 and consequently, direct Respondent Nos.1 and 2 to look into the recommendation of the Letter dated 15.07.2015 as per the order passed by this Court on 11.09.2015 in W.P(MD)No.14545 of 2015.

15. The Learned Special Government Pleader for R-1 to R-4 and R-6 to R-10, submits that the Eighth Respondent addressed a communication in letter No.OT2/AE3/F-9644 PV Correspondence/2017/dt:15.11.2017, addressed to the chief Engineer, WRD, PWD, Plan Formulation, WRD, Chepauk, Chennai(Third Respondent in the present Writ Petition), stating that the estimation for the work of 'Renovation of Tiruppalai Distributory from LS 0m to 3450m (Uchaparambu Road Junction to Moondrumavadi in Madurai Taluk of Madurai Disitricth') for an estimate amount of Rs.1350.00 lakhs, was enclosed for further necessary action. Apart from that, the need and necessity of the estimate was explained in the report accompanying the estimate and the said estimates are prepared based on the current schedule of the rates for the year 2017-2018 and ultimately, necessary Administrative Sanction was sought to be obtained from the Government and to communicate the same to the Third Respondent's office early.

16. At this juncture, the Learned Special Government Pleader for Respondent Nos.1 to 4 and 6 to 10 contends that the road is to be laid by the Fifth Respondent/Madurai Corporation after removing all the obstructions/encroachments. As per the letter dated 15.11.2017 of the Ninth Respondent addressed to the Third Respondent, Channel is to be constructed by Respondent Nos.8 to 10.

17. At this juncture, the Learned Counsel for the Fifth Respondent/Commissioner, Madurai Corporation, submits that the Madurai Corporation is seeking additional funds from the Government to implement the 'Road Laying Project' in the subject matter in issue and further, it is represented on behalf of the Fifth Respondent that with the aid of the Government, they will implement the 'Road Laying Project' in question.

18. Be that as it may, in view of the fact that the Petitioner in the present Writ Petition only prays for passing of order by directing the Fifth Respondent to implement the recommendation letter of the Fourth Respondent dated 15.07.2015 and resultantly seeks a direction being issued to Respondent Nos.1



and 2 to look into the recommendation letter dated 15.07.2015 as per the order of this Court passed in W.P(MD)No.14545 of 2015 dated 11.09.2015, this Court, at this stage, without expressing any opinion on the merits of the matter and also not delving deep into the subject matter in issue, simpliciter, directs the Fifth Respondent/Commissioner, Madurai Corporation, Thallakulam, Madurai, to take all possible and earnest endeavours to implement the recommendation letter of the Fourth Respondent/District Collector, Madurai District, dated 15.07.2015. Furthermore, this Court directs the Respondents 1 and 2 to look into the recommendation letter dated 15.07.2015 of the Fifth Respondent/Commissioner, Madurai Corporation, Thallakulam, as per the order passed by this Court dated 11.09.2015 in W.P(MD)No.14545 of 2015 with due diligence and to act as they deem fit and proper based on the facts and circumstances of the present case, which float on the surface and in this regard, the Fifth Respondent and Respondent Nos.1 and 2 are granted twelve weeks time to act, from the date of receipt of a copy of this order, with a view to give a quietus to the subject matter in issue concerning the present Writ Petition.

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

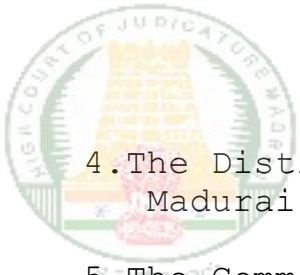
Sd/-
Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar

To

1. The Principal Secretary to Government,
Public Works Department,
Secretariat,
St. George Fort,
Chennai.
2. The Secretary to Government,
Municipal Administration and Water Supply,
Secretariat,
St. George Fort,
Chennai.
3. The Principal Chief Engineer,
Water Resource and Chief Engineer, (General),
Public Works Department,
Chepauk,
Chennai.



4.The District Collector,
Madurai District.

5.The Commissioner,
Madurai Corporation,
Thallakulam,
Madurai.

6.The Commissioner of Police,
Madurai City,
Madurai.

7.The Superintendent of Police,
Surveyor Colony,
Madurai.

8.The Chief Engineer,
Water Resource Organization,
Public Works Department,
Madurai Division,
Madurai -2.

9.The Executive Engineer,
Public Works Department,
Water Resource Organization,
Periyar Vaigai Basin Division,
Madurai - 2.

10.The Assistant Executive Engineer,
Public Works Department,
Water Resource Organization,
Periyar Vaigai Basin Division,
Madurai -2.

+1cc to M/S.M.Subash Babu, Advocate SR.No. 89926

+1cc to M/S.R.Murali, Advocate SR.No. 89845

+1cc to Special Government Pleader, SR.No. 89883

ORDER MADE IN
W.P. (MD) No.20517 of 2017
27.11.2017

PM

JM/SV MMS/SAR 1/12.12.2017/8P/14C