



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.08.2017

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.17532 of 2013
and
M.P(MD)No.2 of 2013

1.J.P.Joe Villavarayar
2.P.Arumugavelan

.. Petitioners

Vs.

1. The District Collector,
Thoothukudi District,
Thoothukudi.
2. Thoothukudi Corporation,
represented by its Commissioner,
Thoothukudi.
3. The Revenue Divisional Officer,
Thoothukudi,
Thoothukudi.
4. The Tahsildar,
Thoothukudi,
Thoothukudi District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents to maintain the reserved open space and public places like Municipal park, primary school, children's play ground, Health center, reading room, school and play ground and road margins in ward No.42, Thoothukudi Corporation, Chidambarm Nagar, Thoothukudi as provided in T.P./D.T.P.No.35/1950 & T.P./D.T.P.No.162/1970 by removing the encroachments and forbear the respondents from making any construction in the road area forming part of lay out plan approved in T.P./D.T.P.No.35/1950 & T.P./D.T.P.No.162/1970.

For petitioner

For RR1, 3 & 4

For R2

: Mr.N.Dilip KUMar

: Mr.C.Selvaraj

: Mr.Saji Bino

**O R D E R**

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

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Heard the learned counsel on either side.

2.Chidambaram Nagar falling within the Corporation limits of Tuticorin is an approved lay out. In the said lay out, spaces have been specifically reserved for public purposes i.e. for playground, road area and park etc. Unfortunately, the local authority themselves have put up constructions in such earmarked places. Aggrieved by the same, this writ petition has been filed.

2.The writ petitioner has made specific allegations in the affidavit filed in support of the writ petition with regard to the illegal constructions put up by the local authority themselves.

3.This writ petition was filed way back in the year 2013. But, till date no counter has been filed. Therefore this Court has to proceed in the matter by holding that the allegations made in the affidavit filed in support of the writ petition stand accepted. Even though this Court adjourned the case on quite a few occasions to enable the local authorities to produce the relevant records, the learned standing counsel for the Corporation continued to take the stand that even the records are not available.

4.Therefore, this Court has no other option but to go by the lay out sketch produced by the writ petitioner. Even the learned standing counsel for the Corporation admitted that it was the Corporation that had put up constructions in the places earmarked as a road. This Court cannot approve the conduct of the respondent Corporation. The places earmarked as road portion will have to be maintained as such. The respondents are directed to maintain the reserved open spaces and road portions free of any encroachments.

5.This writ petition is allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(AE)

/True Copy/

Sub Assistant Registrar



To

1. The District Collector,
Thoothukudi District,
Thoothukudi.

2 The Commissioner,
Thoothukudi Corporation,
Thoothukudi.

3. The Revenue Divisional Officer,
Thoothukudi,
Thoothukudi.

4. The Tahsildar,
Thoothukudi,
Thoothukudi District.

+1cc to Mr.N.Dilip Kumar, Advocate Sr.No.73755

ARUL

VB/GT/SAR3/05/12/2017/3P/6C

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and
M.P (MD) No.2 of 2013
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