



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.04.2017

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THE HON'BLE MR.JUSTICE R.SUBRAMANIAN

W.P.(MD) Nos.2565 and 17179 of 2013

and

M.P.(MD) No.1 of 2013 in WP(MD)No.2565 of 2013

W.P.No.2565 of 2013

M.Gurusamy

... Petitioner

Vs.

1. The Commissioner,
Madurai Corporation,
Madurai.

2. Public Information Officer/
The Assistant Commissioner,
Zonal-I, Madurai Corporation,
Madurai.

3. N.Ganesan
(R3 is impleaded vide order dated
06.03.2017 in WMP(MD)No.2780 of 2017)

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of Certiorari, calling for the records relating to the impugned proceedings in proceeding No. M1/Po5/0009731/2012 dated /9/2012 issued by the 2nd respondent and quash the same.

For Petitioner : Mr.V.Murugan
For Respondents : Mr.R.Murali, for R1 and R2
Mr.R.Karunanithi for R3

W.P.No.17179 of 2013

1. N.Ganesan,
S/o Nagan,
59, Pottalkulam,
Ponmeni Main Road,
Madurai.

... Petitioner



-vs-

1. The Commissioner,
Madurai Corporation,
Anna Maligai,
Madurai.

2. The Assistant Commissioner,
West zone office,
Madurai Corporation,
Madurai.

3. M.Gurusamy,
S/o Mookan,
63, Pottalkulam,
Ponmeni main road,
Madurai - 10.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of Mandamus, directing the respondent's 1 and 2 to lay the under ground drainage facility to the petitioner's house based on the work order in No.417/10-11 dated 20.09.2010 within a stipulated time.

For Petitioner : Mr.R.Karunanithi
For Respondents : Mr.R.R.Prabu Ramachandran
for R1 and R2
Mr.V.Murugan for R3

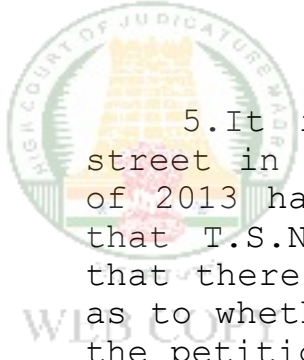
O R D E R

The petitioner in W.P.(MD)No.17179 of 2013 seeks a Writ of Mandamus to direct the respondents 1 and 2 to lay the underground drainage facility to the petitioner's house situated in Town Survey number 112, Ward 23, Block 14 Madurai West town, through the street in Town Survey number 126.

2.According to the petitioner, though the respondents 1 and 2 had issued a work order in view of the objections made by the third respondent, they are not executing the said work order.

3.The third respondent has filed W.P.(MD) No. 2565 of 2013 seeking to quash the proceedings, under which permission was given to the petitioner in W.P.(MD) No.17179 of 2013 for laying the underground drainage line through T.S.No.126.

4.Since the issue involved in both the writ petitions is one and the same, both the writ petitions are disposed of by a common



5.It is not in dispute that T.S.No.126 is classified as a street in the Revenue records. The petitioner in W.P.(MD) No.2565 of 2013 has produced the Town Survey Register which itself shows that T.S.No.126 is recorded as Pottal Kulam street. It appears that there is a dispute with reference to the land in T.S.No.111, as to whether, it is also a common lane or patta lane belonging to the petitioner in W.P.(MD) No.17179 of 2013.

6.As per the Town Survey Register, T.S.No.111 is also shown as "பொட்டல்குளம் பொது நடைபாதை". The petitioner in W.P.(MD) No. 2565 of 2013 is the owner of the property on the south of the house of the petitioner in W.P.(MD) No.17179 of 2013. It appears that he also owns T.S.No.109, which is situate on North Western side of the Pottal Kulam street, shown as T.S.Nos.126 and 111.

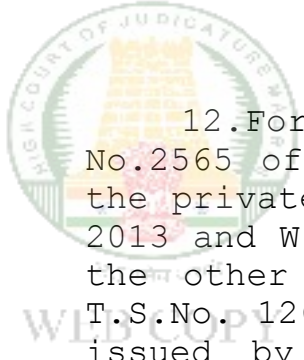
7.According to the learned counsel for the petitioner in W.P.(MD) No.2565 of 2013, the petitioner in W.P.(MD) No.17179 of 2013 is attempting to lay the underground drainage line in his property. The learned counsel would make it clear that he would have no objection, if the drainage line is taken through the pottal kulam street which is in T.S.No.126.

8.As of today, the land in T.S.No.126 is classified as street and as regards the land in T.S.No.111, it appears that there is a dispute pending before the revenue authorities, as to whether that is a street or it belongs to the petitioner in W.P.(MD) No.17179 of 2013. The said dispute is not germane for the purpose of these writ petitions.

9.The authorities have granted permission to the petitioner in W.P.(MD)No. 17179 of 2013 to enable him to take the drainage connection through T.S.No.126. The petitioner in W.P.(MD) No. 2565 of 2013 who is the third respondent in W.P.(MD) No.17179 of 2013 cannot have any objections for the petitioner in W.P.(MD) No. 17179 of 2013, to have a drainage connection through T.S.No.126, which is admittedly earmarked as a street in the revenue records.

10.The counsel for the petitioner in W.P.(MD) No. 2565 of 2013 would contend that the petitioner in W.P.(MD) No.17179 of 2013 is preventing the other inhabitants from taking the drainage connection to their respective houses through the pottal kulam street shown as T.S.No.126. It is made clear that neither of the parties should prevent others from taking drainage connection through area which is marked as street bearing survey number 126.

11.The Writ Petition in W.P.(MD) No.17179 of 2013 is allowed. There shall be a direction, to the authorities to provide drainage connection to the petitioner's house through the lane in T.S.No.126, which is admittedly earmarked as a street.



12. For the above reasons, the Writ Petition in W.P.(MD) No.2565 of 2013 is dismissed. However it is made clear that both the private parties namely the petitioners in W.P.(MD) No.17179 of 2013 and W.P.(MD) No.2565 of 2013 shall not obstruct each other or the other house owners from having drainage connection through T.S.No. 126 which is admittedly classified as a street. The plan issued by the Commissioner, Madurai Corporation on 14.02.2012 shall form part of the order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar

To

1. The Commissioner,
Madurai Corporation,
Anna Maligai,
Madurai.
2. Public Information Officer/
The Assistant Commissioner,
Zonal-I, Madurai Corporation,
Madurai.
3. The Assistant Commissioner,
West zone office,
Madurai Corporation,
Madurai.

- + 1 CC TO Mr.R.MURALI, ADVOCATE IN SR No. 50758
- + 1 CC TO Mr.R.KARUNANITHI, ADVOCATE IN SR No. 50793
- + 1 CC TO Mr.V.MURUGAN, ADVOCATE IN SR No. 51126
- + 1 CC TO Mr.R.PRABU RAMACHANDRAN, ADVOCATE IN SR No. 50749

GK/ARUL

TE/SV-MMS : 20/04/2017 : 4P/8C

W.P.(MD) Nos.2565 and 17179 of 2013 and
MP(MD) No.1 of 2013
06.04.2017