



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.07.2017

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

and

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD) No.9909 of 2013

and

M.P. (MD) .No.1 of 2013

S.V.Patel Alias Vallabai patel

.. Petitioner

Vs.

1. The District Collector,
District Collector Office,
Trichy-1,
Trichy District.

2 .The Commissioner,
Trichy City Corporation,
Promenade Road,
Cantonment,
Trichy-1,
Trichy District.

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the second respondent herein to permit the petitioner to reside as well as conduct Tiffin Stall in the property situated at Trichy District, Trichy Town, Ward No.1, Trichy Cantonment, Rockins Road, South of Valividuvelmurugan Temple, North of Khadicraft and vacant site, East of Annapoorna Canteen, West of Madurai Road measuring east west 30 feet, north south 15 feet, in the light of decree made in O.S.No.1216 of 1983 on the file of District Munsif, Trichy dated on 22.03.1984 as well as petitioner's representation dated 10.06.2013.

For petitioner

: Mr.R.Sundar

For Respondent 1

: Mr.M.Govindan

Special Government Pleader

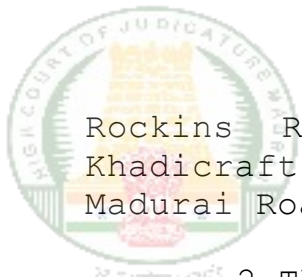
For Respondent 2

: Mr.N.S.Karthikeyan

O R D E R

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

This Writ Petition has been filed for directing the Commissioner, Trichy Corporation to permit the writ petitioner to reside as well as conduct Tiffin Stall in the property situated at Trichy District, Trichy Town, Ward No.1, Trichy Cantonment,



Rockins Road, South of Valividuvelmurugan temple, North of Khadicraft and Vacant site, East of Annapoorna Canteen, West of Madurai Road measuring east west 30 feet, North South 15 feet.

2.The learned counsel appearing for the writ petitioner also placed reliance of decree dated 22.03.1984 made in O.S.No.1216 of 1983 on the filed of District Munsif Court, Trichy.

3.Heard the learned counsel appearing for the petitioner as well as the learned Standing Counsel for the second respondent Corporation.

4.We directed the second respondent to produce sketch of the property in question indicating the location of the shop put up by the petitioner and also other buildings in and around.

5.Today, when the matter was taken up for hearing, the learned Standing Counsel for the Corporation stated that the writ petitioner is not residing in the spot in question and that his residence is 1.5 kilometers away from there. It is also stated that encroachments committed by the writ petitioner has been removed and at present there is no Tiffin Stall as claimed by the writ petitioner. We posed a specific question to the writ petitioner as to whether he has any legal right or title over the place claimed in the writ petition. The learned counsel appearing for the writ petitioner fairly conceded that there is no legal right and that on account of the indulgence of the authorities, he carried on business for a very long time.

6.When the spot in question is a public road, the question of allowing an encroachment in perpetuity cannot arise. As rightly pointed out, as-on-date the writ petitioner is not really running a Tiffin Stall. The contention is that he is residing in the disputed place is clearly false. The prayer for permitting him to reside and carry on the business in question is legally untenable.

7.We therefore, dismiss the writ petition. If there is any other encroachment in and around, it is the duty of the Corporation to clear the same. The corporation cannot be selective in its drive to remove the encroachments.

8.The writ petition is dismissed with the above observations. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(Records)



To:

1. The District Collector,
District Collector Office,
Trichy-1,
Trichy District.

2. The Commissioner,
Trichy City Corporation,
Promenade Road,
Cantonment,
Trichy-1,
Trichy District.

+1cc to Mr.N.S.Karthikeyan, Advocate SR.No.67843

+1cc to Mr.R.Sundar, Advocate SR.No.67721

+1cc to The Spl.Government Pleader Sr.No.68626

SSS

VB/KK/SAR2/24.08.2017/3P/6C

ORDER MADE IN
W.P. (MD) No.9909 of 2013
and
M.P. (MD) .No.1 of 2013

26.07.2017